

HOUSE BILL No. 1386

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-1-8-1; IC 6-8-11-12; IC 9-25-5-5; IC 12-17.6-4-5; IC 22; IC 24-4.5-6-201; IC 27; IC 28; IC 32-8-15.5-10; IC 34-18-5-3; IC 35-43; IC 36-8-10-12.

Synopsis: Various insurance matters. Makes conforming amendments to sections of the Indiana Code that refer to insurance agents and limited insurance representatives. Imposes limits on the amount a domestic insurance company may invest in certain securities. Requires a domestic insurance company to deposit securities of the domestic insurance company with a custodian and specifies the duties of the custodian. Amends the law concerning insurance administrators and provides for reciprocity in the licensure of insurance administrators. Amends the law concerning reinsurance intermediaries and provides for reciprocity in the licensure of reinsurance intermediaries. Amends the clean claims law specifying the period within which an insurer or a health maintenance organization must notify a provider of claim deficiencies. Deletes a provision requiring an annual report to the department of insurance concerning the county sheriff pension trust fund. Makes conforming amendments. Makes a technical change.

Effective: January 1, 2002 (retroactive); July 1, 2002.

Ripley

January 15, 2002, read first time and referred to Committee on Insurance, Corporations and Small Business.



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1386

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-1-8-1, AS AMENDED BY P.L.215-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 1. (a) No individual may
4 be compelled by any state agency, board, commission, department,
5 bureau, or other entity of state government (referred to as "state
6 agency" in this chapter) to provide the individual's Social Security
7 number to the state agency against the individual's will, absent federal
8 requirements to the contrary. However, the provisions of this chapter
9 do not apply to the following:
10 (1) Department of state revenue.
11 (2) Department of workforce development.
12 (3) The programs administered by:
13 (A) the division of family and children;
14 (B) the division of mental health and addiction;
15 (C) the division of disability, aging, and rehabilitative services;
16 and
17 (D) the office of Medicaid policy and planning;



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of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Health professions bureau.

(11) Indiana professional licensing agency.

(12) Indiana department of insurance, with respect to licensing of insurance ~~agents~~ **producers**.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

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(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

SECTION 2. IC 6-8-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. The following may be an account administrator under this chapter:

(1) A federal or state chartered:

- (A) bank;
- (B) savings association;
- (C) savings bank; or
- (D) credit union.

(2) A trust company authorized to act as a fiduciary.

(3) An insurance company or health maintenance organization authorized to do business in Indiana under IC 27.

(4) A broker-dealer, agent, or investment advisor registered under IC 23-2-1.

(5) A person ~~(A) that holds a certificate of registration is licensed as an insurance administrator or~~

~~(B) for whom the insurance commissioner has waived the requirement of a certificate of registration as an insurance administrator;~~

~~under IC 27-1-25-11; IC 27-1-25.~~

(6) An employee welfare benefit plan that is governed by the federal Employee Retirement Income Security Act, 29 U.S.C. 1001 et seq.

(7) An employer that participates in the medical care savings account program.

SECTION 3. IC 9-25-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 5. (a) A person who receives a request for evidence of financial responsibility under section 3 of this chapter shall set forth in the certificate of compliance the following information concerning the form of financial responsibility that was in effect with respect to the motor vehicle on the date in question:

(1) If a motor vehicle liability policy was in effect, the following:

- (A) The name and address of the insurer.
- (B) The limits of coverage of the policy.
- (C) The identification number applying to the policy.

(2) If a bond was in effect, the following:

- (A) The name and address of the bond company or surety.
- (B) The face amount of the bond.



(3) If self-insurance was in effect under IC 9-25-4-11, the following:

(A) The date on which the certificate of self-insurance was issued by the bureau.

(B) The name of the person to whom the certificate of self-insurance was issued.

(b) A person who requests information or verification of coverage to complete a certificate of compliance under subsection (a) from:

(1) an insurance company; or

(2) an insurance ~~agent~~ **producer**;

is not required to give the company or the ~~agent~~ **producer** a reason for requesting the information unless the person has been involved in an accident.

SECTION 4. IC 12-17.6-4-5, AS ADDED BY P.L.273-1999, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 5. (a) It is a violation of IC 27-4-1-4 if an insurer, or an insurance ~~agent~~ **producer** or insurance broker compensated by the insurer, knowingly or intentionally refers an insured or the dependent of an insured to the program for health insurance coverage when the insured already receives health insurance coverage through an employer's health care plan that is underwritten by the insurer.

(b) The office shall coordinate with the children's health policy board under IC 4-23-27 to evaluate the need for mechanisms that minimize the incentive for an employer to eliminate or reduce health care coverage for an employee's dependents.

SECTION 5. IC 22-2-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. As used in this chapter:

"Commissioner" means the commissioner of labor or the commissioner's authorized representative.

"Department" means the department of labor.

"Occupation" means an industry, trade, business, or class of work in which employees are gainfully employed.

"Employer" means any individual, partnership, association, limited liability company, corporation, business trust, the state, or other governmental agency or political subdivision during any work week in which they have two (2) or more employees. However, it shall not include any employer who is subject to the minimum wage provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209).

"Employee" means any person employed or permitted to work or

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perform any service for remuneration or under any contract of hire, written or oral, express or implied by an employer in any occupation, but shall not include any of the following:

- (a) Persons less than sixteen (16) years of age.
- (b) Persons engaged in an independently established trade, occupation, profession, or business who, in performing the services in question, are free from control or direction both under a contract of service and in fact.
- (c) Persons performing services not in the course of the employing unit's trade or business.
- (d) Persons employed on a commission basis.
- (e) Persons employed by their own parent, spouse, or child.
- (f) Members of any religious order performing any service for that order, any ordained, commissioned, or licensed minister, priest, rabbi, sexton, or Christian Science reader, and volunteers performing services for any religious or charitable organization.
- (g) Persons performing services as student nurses in the employ of a hospital or nurses training school while enrolled and regularly attending classes in a nurses training school chartered or approved under law, or students performing services in the employ of persons licensed as both funeral directors and embalmers as a part of their requirements for apprenticeship to secure an embalmer's license or a funeral director's license from the state, or during their attendance at any schools required by law for securing an embalmer's or funeral director's license.
- (h) Persons who have completed a four (4) year course in a medical school approved by law when employed as interns or resident physicians by any accredited hospital.
- (i) Students performing services for any school, college, or university in which they are enrolled and are regularly attending classes.
- (j) Persons with physical or mental disabilities performing services for nonprofit organizations organized primarily for the purpose of providing employment for persons with disabilities or for assisting in their therapy and rehabilitation.
- (k) Persons employed as insurance ~~agents~~, **producers**, insurance solicitors, and outside salesmen, if all their services are performed for remuneration solely by commission.
- (l) Persons performing services for any camping, recreational, or guidance facilities operated by a charitable, religious, or educational nonprofit organization.
- (m) Persons engaged in agricultural labor. The term shall include

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only services performed:

(1) on a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment if the major part of the service is performed on a farm;

(3) in connection with:

(A) the production or harvesting of maple sugar or maple syrup or any commodity defined as an agricultural commodity in the Agricultural Marketing Act, as amended (12 U.S.C. 1141j);

(B) the raising or harvesting of mushrooms;

(C) the hatching of poultry; or

(D) the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, to market, or to a carrier for transportation to market, any agricultural or horticultural commodity, but only if service is performed as an incident to ordinary farming operation or, in the case of fruits and vegetables, as an incident to the preparation of fruits and vegetables for market. However, this exception shall not apply to services performed in connection with any agricultural or horticultural commodity after its delivery to a terminal market or processor for preparation or distribution for consumption.

As used in this subdivision, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, or greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(n) Those persons employed in executive, administrative, or professional occupations who have the authority to employ or discharge and who earn one hundred fifty dollars (\$150) or more a week, and outside salesmen.

(o) Any person not employed for more than four (4) weeks in any four (4) consecutive three (3) month periods.

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(p) Any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Act of 1935 (49 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.

SECTION 6. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk; stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the

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1 due date of such payment. For the purposes of calculating the
 2 assessment under this subsection, the board may consider payments for
 3 temporary total disability, temporary partial disability, permanent total
 4 impairment, permanent partial impairment, or death of an employee.
 5 The board may not consider payments for medical benefits in
 6 calculating an assessment under this subsection. If the amount to the
 7 credit of the second injury fund on or before October 1 of any year
 8 exceeds one million dollars (\$1,000,000), the assessment allowed
 9 under this subsection shall not be assessed or collected during the
 10 ensuing year. But when on or before October 1 of any year the amount
 11 to the credit of the fund is less than one million dollars (\$1,000,000),
 12 the payments of not more than two and one-half percent (2.5%) of the
 13 total amount of all worker's compensation paid to injured employees or
 14 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar
 15 year next preceding that date shall be resumed and paid into the fund.
 16 The board may not use an assessment rate greater than twenty-five
 17 hundredths of one percent (0.25%) above the amount recommended by
 18 the study performed before the assessment.

19 (d) The board shall enter into a contract with an actuary or another
 20 qualified firm that has experience in calculating worker's compensation
 21 liabilities. Not later than September 1 of each year, the actuary or other
 22 qualified firm shall calculate the recommended funding level of the
 23 fund based on the previous year's claims and inform the board of the
 24 results of the calculation. If the amount to the credit of the fund is less
 25 than the amount required under subsection (c), the board may conduct
 26 an assessment under subsection (c). The board shall pay the costs of the
 27 contract under this subsection with money in the fund.

28 (e) An assessment collected under subsection (c) on an employer
 29 who is not self-insured must be assessed through a surcharge based on
 30 the employer's premium. An assessment collected under subsection (c)
 31 does not constitute an element of loss, but for the purpose of collection
 32 shall be treated as a separate cost imposed upon insured employers. A
 33 premium surcharge under this subsection must be collected at the same
 34 time and in the same manner in which the premium for coverage is
 35 collected, and must be shown as a separate amount on a premium
 36 statement. A premium surcharge under this subsection must be
 37 excluded from the definition of premium for all purposes, including the
 38 computation of **agent insurance producer** commissions or premium
 39 taxes. However, an insurer may cancel a worker's compensation policy
 40 for nonpayment of the premium surcharge. A cancellation under this
 41 subsection must be carried out under the statutes applicable to the
 42 nonpayment of premiums.



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(f) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section

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are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 7. IC 22-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. "Employment" shall not include the following:

(a) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(b) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the board is authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in IC 22-4-19-2 for rules of the board, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(c) "Agricultural labor" as provided in section 2(1) of this chapter

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shall include only services performed:

(i) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(ii) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subdivision (A), but only if such operators produce more than one-half (1/2) of the commodity with respect to which such service is performed;

(C) the provisions of subdivisions (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(v) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural

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1 or horticultural commodities.

2 (d) Domestic service in a private home, local college club, or local
3 chapter of a college fraternity or sorority, except as provided in section
4 2(m) of this chapter.

5 (e) Service performed on or in connection with a vessel or aircraft
6 not an American vessel or American aircraft, if the employee is
7 employed on and in connection with such vessel or aircraft when
8 outside the United States.

9 (f) Service performed by an individual in the employ of child or
10 spouse, and service performed by a child under the age of twenty-one
11 (21) in the employ of a parent.

12 (g) Service not in the course of the employing unit's trade or
13 business performed in any calendar quarter by an individual, unless the
14 cash remuneration paid for such service is fifty dollars (\$50) or more
15 and such service is performed by an individual who is regularly
16 employed by such employing unit to perform such service. For the
17 purposes of this subsection, an individual shall be deemed to be
18 regularly employed to perform service not in the course of an
19 employing unit's trade or business during a calendar quarter only if:

20 (i) on each of some of twenty-four (24) days during such quarter
21 such individual performs such service for some portion of the day;
22 or

23 (ii) such individual was regularly employed (as determined under
24 clause (i)) by such employing unit in the performance of such
25 service during the preceding calendar quarter.

26 (h) Service performed by an individual in any calendar quarter in
27 the employ of any organization exempt from income tax under Section
28 501 of the Internal Revenue Code (except those services included in
29 sections 2(i) and 2(j) of this chapter if the remuneration for such
30 service is less than fifty dollars (\$50).

31 (i) Service performed in the employ of a hospital, if such service is
32 performed by a patient of such hospital.

33 (j) Service performed in the employ of a school, college, or
34 university if such service is performed:

35 (i) by a student who is enrolled and is regularly attending classes
36 at such school, college, or university; or

37 (ii) by the spouse of such a student, if such spouse is advised, at
38 the time such spouse commences to perform such service, that:

39 (A) the employment of such spouse to perform such service is
40 provided under a program to provide financial assistance to
41 such student by such school, college, or university; and

42 (B) such employment will not be covered by any program of

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1 unemployment insurance.

2 (k) Service performed by an individual who is enrolled at a
3 nonprofit or public educational institution which normally maintains a
4 regular faculty and curriculum and normally has a regularly organized
5 body of students in attendance at the place where its educational
6 activities are carried on as a student in a full-time program, taken for
7 credit at such institution, which combines academic instruction with
8 work experience, if such service is an integral part of such program,
9 and such institution has so certified to the employer, except that this
10 subsection shall not apply to service performed in a program
11 established for or on behalf of an employer or group of employers.

12 (l) Service performed in the employ of a government foreign to the
13 United States of America, including service as a consular or other
14 officer or employee or a nondiplomatic representative.

15 (m) Service performed in the employ of an instrumentality wholly
16 owned by a government foreign to that of the United States of America,
17 if the service is of a character similar to that performed in foreign
18 countries by employees of the United States of America or of an
19 instrumentality thereof, and if the board finds that the Secretary of State
20 of the United States has certified to the Secretary of the Treasury of the
21 United States that the government, foreign to the United States, with
22 respect to whose instrumentality exemption is claimed, grants an
23 equivalent exemption with respect to similar service performed in such
24 country by employees of the United States and of instrumentalities
25 thereof.

26 (n) Service performed as a student nurse in the employ of a hospital
27 or nurses' training school by an individual who is enrolled and is
28 regularly attending classes in a nurses' training school chartered or
29 approved pursuant to state law; and service performed as an intern in
30 the employ of a hospital by an individual who has completed a four (4)
31 year course in a medical school chartered or approved pursuant to state
32 law.

33 (o) Service performed by an individual as an insurance ~~agent~~
34 **producer** or as an insurance solicitor, if all such service performed by
35 such individual is performed for remuneration solely by way of
36 commission.

37 (p)(A) Service performed by an individual under the age of eighteen
38 (18) in the delivery or distribution of newspapers or shopping news, not
39 including delivery or distribution to any point for subsequent delivery
40 or distribution.

41 (B) Services performed by an individual in, and at the time of, the
42 sale of newspapers or magazines to ultimate consumers, under an

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1 arrangement under which the newspapers or magazines are to be sold
 2 by him at a fixed price, his compensation being based on the retention
 3 of the excess of such price over the amount at which the newspapers or
 4 magazines are charged to him, whether or not he is guaranteed a
 5 minimum amount of compensation for such service, or is entitled to be
 6 credited with the unsold newspapers or magazines turned back.

7 (q) Service performed in the employ of an international
 8 organization.

9 (r) Except as provided in IC 22-4-7-1, services covered by an
 10 election duly approved by the agency charged with the administration
 11 of any other state or federal unemployment compensation law in
 12 accordance with an arrangement pursuant to IC 22-4-22-1 through
 13 IC 22-4-22-5, during the effective period of such election.

14 (s) If the service performed during one-half (1/2) or more of any pay
 15 period by an individual for an employing unit constitutes employment,
 16 all the services of such individual for such period shall be deemed to
 17 be employment; but if the services performed during more than
 18 one-half (1/2) of any pay period by such an individual do not constitute
 19 employment, then none of the services of such individual for such
 20 period shall be deemed to be employment. As used in this subsection,
 21 "pay period" means a period of not more than thirty-one (31)
 22 consecutive days for which a payment of remuneration is ordinarily
 23 made to the individual by the employing unit. This subsection shall not
 24 be applicable with respect to services performed in a pay period by any
 25 such individual where any such service is excepted by subsection (b).

26 (t) Service performed by an inmate of a custodial or penal
 27 institution.

28 (u) Service performed as a precinct election officer (as defined in
 29 IC 3-5-2-40.1).

30 SECTION 8. IC 24-4.5-6-201 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 32 Sec. 201. (1) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply
 33 to a person, including a supervised financial organization, engaged in
 34 Indiana in any of the following:

35 (a) Making consumer credit sales, consumer leases, or consumer
 36 loans.

37 (b) Taking assignments of rights against debtors that arise from
 38 sales, leases, or loans by a person having an office or a place of
 39 business in Indiana, and undertaking direct collection of payments
 40 from the debtors or enforcement of rights against the debtors.

41 (c) Placing consumer credit insurance, receiving commissions for
 42 consumer credit insurance, or acting as ~~an agent~~ **a limited line**

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1 **credit insurance producer** in the sale of consumer credit
2 insurance.

3 (2) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 are not
4 applicable to a seller whose credit sales consist entirely of sales made
5 pursuant to a seller credit card issued by a person other than the seller
6 if the issuer of the card has complied with the provisions of this
7 section, IC 24-4.5-6-202, and IC 24-4.5-6-203.

8 (3) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a
9 seller whose credit sales are made using credit cards that:

10 (a) are issued by a lender;

11 (b) are in the name of the seller; and

12 (c) can be used by the buyer or lessee only for purchases or leases
13 at locations of the named seller.

14 SECTION 9. IC 27-1-2-3, AS AMENDED BY P.L.48-2000,
15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. As used in this article,
17 and unless a different meaning appears from the context: (a)
18 "Insurance" means a contract of insurance or an agreement by which
19 one (1) party, for a consideration, promises to pay money or its
20 equivalent or to do an act valuable to the insured upon the destruction,
21 loss or injury of something in which the other party has a pecuniary
22 interest, or in consideration of a price paid, adequate to the risk,
23 becomes security to the other against loss by certain specified risks; to
24 grant indemnity or security against loss for a consideration.

25 (b) "Commissioner" means the "insurance commissioner" of this
26 state.

27 (c) "Department" means "the department of insurance" of this state.

28 (d) The term "company" or "corporation" means an insurance
29 company and includes all persons, partnerships, corporations,
30 associations, orders or societies engaged in or proposing to engage in
31 making any kind of insurance authorized by the laws of this state.

32 (e) The term "domestic company" or "domestic corporation" means
33 an insurance company organized under the insurance laws of this state.

34 (f) The term "foreign company" or "foreign corporation" means an
35 insurance company organized under the laws of any state of the United
36 States other than this state or under the laws of any territory or insular
37 possession of the United States or the District of Columbia.

38 (g) The term "alien company" or "alien corporation" means an
39 insurance company organized under the laws of any country other than
40 the United States or territory or insular possession thereof or of the
41 District of Columbia.

42 (h) The term "person" includes individuals, corporations,

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1 associations, and partnerships; personal pronoun includes all genders;
2 the singular includes the plural and the plural includes the singular.

3 (k) The term "insurance solicitor" means any natural person
4 employed to aid an insurance ~~agent~~ **producer** in any manner in
5 soliciting, negotiating or effecting contracts of insurance or indemnity
6 other than life.

7 (l) The term "principal office" means that office maintained by the
8 corporation in this state, the address of which is required by the
9 provisions of this article to be kept on file in the office of the
10 department.

11 (m) The term "articles of incorporation" includes both the original
12 articles of incorporation and any and all amendments thereto, except
13 where the original articles of incorporation only are expressly referred
14 to, and includes articles of merger, consolidation and reinsurance, and
15 in case of corporations, heretofore organized, articles of reorganization
16 filed in the office of the secretary of state, and all amendments thereto.

17 (n) The term "shareholder" means one who is a holder of record of
18 shares of stock in a corporation, unless the context otherwise requires.

19 (o) The term "policyholder" means one who is a holder of a contract
20 of insurance in an insurance company.

21 (p) The term "member" means one who holds a contract of
22 insurance or is insured in an insurance company other than a stock
23 corporation.

24 (q) The term "capital stock" means the aggregate amount of the par
25 value of all shares of capital stock.

26 (r) The term "capital" means the aggregate amount paid in on the
27 shares of capital stock of a corporation issued and outstanding.

28 (s) The term "life insurance company" means any company making
29 one or more of the kinds of insurance set out and defined in class 1(a)
30 of IC 27-1-5-1.

31 (t) The term "casualty insurance company" means any company
32 making the kind or kinds of insurance set out and defined in class 2 of
33 IC 27-1-5-1.

34 (u) The term "fire and marine insurance company" means any
35 company making the kind or kinds of insurance set out and defined in
36 class 3 of IC 27-1-5-1.

37 (v) The term "certificate of authority" means an instrument in
38 writing issued by the department to an insurer, which sets out the
39 authority of such insurer to engage in the business of insurance or
40 activities connected therewith.

41 (w) The term "premium" means money or any other thing of value
42 paid or given in consideration to an insurer, ~~agent~~, **insurance**

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producer, or solicitor on account of or in connection with a contract of insurance and shall include as a part but not in limitation of the above, policy fees, admission fees, membership fees and regular or special assessments and payments made on account of annuities.

(x) The term "insurer" means a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or inter-insurers, or individual underwriters.

(y) The terms "assessment plan" and "assessment insurance" mean the mode or plan and the business of a corporation, association or society organized and limited to the making of insurance on the lives of persons and against disability from disease, bodily injury or death by accident, and which provides for the payment of policy claims, accumulation of reserve or emergency funds, and the expenses of the management and prosecution of its business by payments to be made either at stated periods named in the contract or upon assessments, and wherein the insured's liability to contribute is not limited to a fixed sum.

(z) "Agency billed" refers to a system in which an insured pays a premium directly to an insurance agency.

SECTION 10. IC 27-1-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 17. The commissioner may, personally or through ~~his~~ **the commissioner's** deputies and assistants, examine into the affairs of any such proposed company and inspect its books and papers, and may summon and examine under oath any officer or ~~agent~~ **insurance producer** or any person who is or has been connected with such company, and if ~~he~~ **the commissioner** finds the company is violating the law, or if the company shall not be qualified for a certificate of authority within one (1) year from date of its permit, ~~he~~ **the commissioner** may revoke its permit; and if ~~he~~ **the commissioner** finds an ~~agent~~ **insurance producer** of such company has violated the law, ~~he~~ **the commissioner** may revoke ~~his~~ **the insurance producer's** authority, and ~~he~~ **the commissioner** may for such ~~agent's~~ **insurance producer's** violation revoke the company's permit. Any revocation shall be after notice and hearing. The commissioner may renew any company's permit or ~~agent's~~ **insurance producer's** authority which ~~he~~ **the commissioner** has revoked.

SECTION 11. IC 27-1-6.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 5. When any insurer admitted to transact business in this state transfers its domicile to this or any other state, its certificate of

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1 authority, ~~agents'~~ **insurance producers'** appointments and licenses,
 2 policy forms, rates, authorizations, and other filings and approvals
 3 which existed at the time of the transfer, remain in effect after the
 4 transfer of domicile occurs.

5 SECTION 12. IC 27-1-12-2, AS AMENDED BY P.L.126-2001,
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2002]: Sec. 2. (a) The following definitions apply to this
 8 section:

9 (1) "Acceptable collateral" means, as to securities lending
 10 transactions:

11 (A) cash;

12 (B) cash equivalents;

13 (C) letters of credit; and

14 (D) direct obligations of, or securities that are fully guaranteed
 15 as to principal and interest by, the government of the United
 16 States or any agency of the United States, including the
 17 Federal National Mortgage Association and the Federal Home
 18 Loan Mortgage Corporation.

19 (2) "Acceptable collateral" means, as to lending foreign securities,
 20 sovereign debt that is rated:

21 (A) A- or higher by Standard & Poor's Corporation;

22 (B) A3 or higher by Moody's Investors Service, Inc.;

23 (C) A- or higher by Duff and Phelps, Inc.; or

24 (D) 1 by the Securities Valuation Office.

25 (3) "Acceptable collateral" means, as to repurchase transactions:

26 (A) cash;

27 (B) cash equivalents; and

28 (C) direct obligations of, or securities that are fully guaranteed
 29 as to principal and interest by, the government of the United
 30 States or any agency of the United States, including the
 31 Federal National Mortgage Association and the Federal Home
 32 Loan Mortgage Corporation.

33 (4) "Acceptable collateral" means, as to reverse repurchase
 34 transactions:

35 (A) cash; and

36 (B) cash equivalents.

37 (5) "Admitted assets" means assets permitted to be reported as
 38 admitted assets on the statutory financial statement of the life
 39 insurance company most recently required to be filed with the
 40 commissioner.

41 (6) "Business entity" means:

42 (A) a sole proprietorship;

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- 1 (B) a corporation;
- 2 (C) a limited liability company;
- 3 (D) an association;
- 4 (E) a partnership;
- 5 (F) a joint stock company;
- 6 (G) a joint venture;
- 7 (H) a mutual fund;
- 8 (I) a trust;
- 9 (J) a joint tenancy; or
- 10 (K) other, similar form of business organization;
- 11 whether organized for-profit or not-for-profit.
- 12 (7) "Cash" means any of the following:
- 13 (A) United States denominated paper currency and coins.
- 14 (B) Negotiable money orders and checks.
- 15 (C) Funds held in any time or demand deposit in any
- 16 depository institution, the deposits of which are insured by the
- 17 Federal Deposit Insurance Corporation.
- 18 (8) "Cash equivalent" means any of the following:
- 19 (A) A certificate of deposit issued by a depository institution,
- 20 the deposits of which are insured by the Federal Deposit
- 21 Insurance Corporation.
- 22 (B) A banker's acceptance issued by a depository institution,
- 23 the deposits of which are insured by the Federal Deposit
- 24 Insurance Corporation.
- 25 (C) A government money market mutual fund.
- 26 (D) A class one money market mutual fund.
- 27 (9) "Class one money market mutual fund" means a money
- 28 market mutual fund that at all times qualifies for investment
- 29 pursuant to the "Purposes and Procedures of the Securities
- 30 Valuation Office" or any successor publication either using the
- 31 bond class one reserve factor or because it is exempt from asset
- 32 valuation reserve requirements.
- 33 (10) "Dollar roll transaction" means two (2) simultaneous
- 34 transactions that have settlement dates not more than ninety-six
- 35 (96) days apart and that meet the following description:
- 36 (A) In one (1) transaction, a life insurance company sells to a
- 37 business entity one (1) or both of the following:
- 38 (i) Asset-backed securities that are issued, assumed, or
- 39 guaranteed by the Government National Mortgage
- 40 Association, the Federal National Mortgage Association, or
- 41 the Federal Home Loan Mortgage Corporation or the
- 42 successor of an entity referred to in this item.

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(ii) Other asset-backed securities referred to in Section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended.

(B) In the other transaction, the life insurance company is obligated to purchase from the same business entity securities that are substantially similar to the securities sold under clause (A).

(11) "Domestic jurisdiction" means:

- (A) the United States;
- (B) any state, territory, or possession of the United States;
- (C) the District of Columbia;
- (D) Canada; or
- (E) any province of Canada.

(12) "Earnings available for fixed charges" means income, after deducting:

- (A) operating and maintenance expenses other than expenses that are fixed charges;
- (B) taxes other than federal and state income taxes;
- (C) depreciation; and
- (D) depletion;

but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of a business entity.

(13) "Fixed charges" includes:

- (A) interest on funded and unfunded debt;
- (B) amortization of debt discount; and
- (C) rentals for leased property.

(14) "Foreign currency" means a currency of a foreign jurisdiction.

(15) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

(16) "Government money market mutual fund" means a money market mutual fund that at all times:

- (A) invests only in:
 - (i) obligations that are issued, guaranteed, or insured by the United States; or
 - (ii) collateralized repurchase agreements composed of obligations that are issued, guaranteed, or insured by the United States; and
- (B) qualifies for investment without a reserve pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

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(17) "Guaranteed or insured," when used in reference to an obligation acquired under this section, means that the guarantor or insurer has agreed to:

(A) perform or insure the obligation of the obligor or purchase the obligation; or

(B) be unconditionally obligated, until the obligation is repaid, to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

(18) "Investment company" means:

(A) an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended; or

(B) a person described in Section 3(c) of the Investment Company Act of 1940.

(19) "Investment company series" means an investment portfolio of an investment company that is organized as a series company to which assets of the investment company have been specifically allocated.

(20) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit that is:

(A) issued or confirmed by; and

(B) payable and presentable at;

a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication. To constitute acceptable collateral for the purposes of paragraph 29 of subsection (b) of this section, a letter of credit must have an expiration date beyond the term of the subject transaction.

(21) "Market value" means the following:

(A) As to cash, the amount of the cash.

(B) As to cash equivalents, the amount of the cash equivalents.

(C) As to letters of credit, the amount of the letters of credit.

(D) As to a security as of any date:

(i) the price for the security on that date obtained from a generally recognized source, or the most recent quotation from such a source; or

(ii) if no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction;

plus accrued but unpaid income on the security to the extent

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- 1 not included in the price as of that date.
- 2 (22) "Money market mutual fund" means a mutual fund that
- 3 meets the conditions of 17 CFR 270.2a-7, under the Investment
- 4 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 5 (23) "Multilateral development bank" means an international
- 6 development organization of which the United States is a
- 7 member.
- 8 (24) "Mutual fund" means:
- 9 (A) an investment company; or
- 10 (B) in the case of an investment company that is organized as
- 11 a series company, an investment company series;
- 12 that is registered with the United States Securities and Exchange
- 13 Commission under the Investment Company Act of 1940 (15
- 14 U.S.C. 80a-1 et seq.).
- 15 (25) "Obligation" means any of the following:
- 16 (A) A bond.
- 17 (B) A note.
- 18 (C) A debenture.
- 19 (D) Any other form of evidence of debt.
- 20 (26) "Person" means:
- 21 (A) an individual;
- 22 (B) a business entity;
- 23 (C) a multilateral development bank; or
- 24 (D) a government or quasi-governmental body, such as a
- 25 political subdivision or a government sponsored enterprise.
- 26 (27) "Repurchase transaction" means a transaction in which a life
- 27 insurance company purchases securities from a business entity
- 28 that is obligated to repurchase the purchased securities or
- 29 equivalent securities from the life insurance company at a
- 30 specified price, either within a specified period of time or upon
- 31 demand.
- 32 (28) "Reverse repurchase transaction" means a transaction in
- 33 which a life insurance company sells securities to a business
- 34 entity and is obligated to repurchase the sold securities or
- 35 equivalent securities from the business entity at a specified price,
- 36 either within a specified period of time or upon demand.
- 37 (29) "Securities lending transaction" means a transaction in which
- 38 securities are loaned by a life insurance company to a business
- 39 entity that is obligated to return the loaned securities or equivalent
- 40 securities to the life insurance company, either within a specified
- 41 period of time or upon demand.
- 42 (30) "Securities Valuation Office" refers to:

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(A) the Securities Valuation Office of the National Association of Insurance Commissioners; or

(B) any successor of the office referred to in Clause (A) established by the National Association of Insurance Commissioners.

(31) "Series company" means an investment company that is organized as a series company (as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended).

(32) "Supported", when used in reference to an obligation, by whomever issued or made, means that:

(a) repayment of the obligation by:

(i) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction; or

(ii) a business entity;

as the case may be, is secured by real or personal property of value at least equal to the principal amount of the obligation by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in such property for the benefit of the holder of the obligation; and

(b) the:

(i) domestic jurisdiction or administration, agency, authority, or instrumentality of the domestic jurisdiction; or

(ii) business entity;

as the case may be, has entered into a firm agreement to rent or use the property pursuant to which it is obligated to pay money as rental or for the use of such property in amounts and at times which shall be sufficient, after provision for taxes upon and other expenses of use of the property, to repay in full the obligation with interest and when such agreement and the money obligated to be paid thereunder are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security for the repayment of the obligation consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial, fixed period of the lease or contract, of less than one hundred percent (100%) of the obligation if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of

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the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of such period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

(b) Investments of domestic life insurance companies at the time they are made shall conform to the following categories, conditions, limitations, and standards:

1. Obligations of a domestic jurisdiction or of any administration, agency, authority, or instrumentality of a domestic jurisdiction.

2. Obligations guaranteed, supported, or insured as to principal and interest by a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction.

3. Obligations issued under or pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31, 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) as in effect on December 31, 1990, interest bearing obligations of the FSLIC Resolution Fund or shares of any institution whose deposits are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation to the extent that such shares are insured, obligations issued or guaranteed by a multilateral development bank, and obligations issued or guaranteed by the African Development Bank.

4. Obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village, or other civil administration, agency, authority, instrumentality, or subdivision of a domestic jurisdiction, providing such obligations are authorized by law and are:

(a) direct and general obligations of the issuing, guaranteeing or insuring governmental unit, administration, agency, authority, district, subdivision, or instrumentality;

(b) payable from designated revenues pledged to the payment of the principal and interest thereof; or

(c) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment. The area to which such improvement bonds or other obligations relate shall be situated within the limits of a town or city and at least fifty percent (50%) of the properties within such area shall be improved with business buildings or residences.

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5. Loans evidenced by obligations secured by first mortgage liens on otherwise unencumbered real estate or otherwise unencumbered leaseholds having at least fifty (50) years of unexpired term, such real estate, or leaseholds to be located in a domestic jurisdiction. Such loans shall not exceed eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by:

- (a) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of any domestic jurisdiction; or
- (b) a private mortgage insurance corporation approved by the department.

If improvements constitute a part of the value of the real estate or leaseholds, such improvements shall be insured against fire for the benefit of the mortgagee in an amount not less than the difference between the value of the land and the unpaid balance of the loan.

For the purpose of this section, real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

- (1) liens inferior to the lien securing the loan made by the life insurance company;
- (2) taxes or assessment liens not delinquent;
- (3) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls, or utility connections;
- (4) building restrictions or other restrictive covenants; or
- (5) an unassigned lease reserving rents or profits to the owner.

A loan that is authorized by this paragraph remains qualified under this paragraph notwithstanding any refinancing, modification, or extension of the loan. Investments authorized by this paragraph shall not in the aggregate exceed forty-five percent (45%) of the life insurance company's admitted assets.

6. Loans evidenced by obligations guaranteed or insured, but only to the extent guaranteed or insured, by a domestic jurisdiction or by any agency, administration, authority, or instrumentality of any domestic jurisdiction, and secured by second or subsequent mortgages or deeds of trust on real estate or leaseholds, provided the terms of the leasehold mortgages or deeds of trust shall not exceed four-fifths (4/5) of the unexpired lease term, including enforceable renewable options remaining at the time of the loan.

7. Real estate contracts involving otherwise unencumbered real estate situated in a domestic jurisdiction, to be secured by the title to

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such real estate, which shall be transferred to the life insurance company or to a trustee or nominee of its choosing. For statement and deposit purposes, the value of a contract acquired pursuant to this paragraph shall be whichever of the following amounts is the least:

- (a) eighty percent (80%) of the contract price of the real estate;
- (b) eighty percent (80%) of the fair value of the real estate at the time the contract is purchased, such value to be determined in a manner satisfactory to the department; or
- (c) the amount due under the contract.

For the purpose of this paragraph, real estate shall not be deemed encumbered by reason of the existence in relation thereto of: (1) taxes or assessment liens not delinquent; (2) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls or utility connections; (3) building restrictions or other restrictive covenants; or (4) an unassigned lease reserving rents or profits to the owner. Fire insurance upon improvements constituting a part of the real estate described in the contract shall be maintained in an amount at least equal to the unpaid balance due under the contract or the fair value of improvements, whichever is the lesser.

8. Improved or unimproved real property, whether encumbered or unencumbered, or any interest therein, held directly or evidenced by joint venture interests, general or limited partnership interests, trust certificates, or any other instruments, and acquired by the life insurance company as an investment, which real property, if unimproved, is developed within five (5) years. Real property acquired for investment under this paragraph, whether leased or intended to be developed for commercial or residential purposes or otherwise lawfully held, is subject to the following conditions and limitations:

- (a) The real estate shall be located in a domestic jurisdiction.
- (b) The admitted assets of the life insurance company must exceed twenty-five million dollars (\$25,000,000).
- (c) The life insurance company shall have the right to expend from time to time whatever amount or amounts may be necessary to conform the real estate to the needs and purposes of the lessee and the amount so expended shall be added to and become a part of the investment in such real estate.
- (d) The value for statement and deposit purposes of an investment under this paragraph shall be reduced annually by amortization of the costs of improvement and development, less land costs, over the expected life of the property, which value and amortization shall for statement and deposit purposes be determined in a

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manner satisfactory to the commissioner. In determining such value with respect to the calendar years in which an investment begins or ends with respect to a point in time other than the beginning or end of a calendar year, the amortization provided above shall be made on a proportional basis.

(e) Fire insurance shall be maintained in an amount at least equal to the insurable value of the improvements or the difference between the value of the land and the value at which such real estate is carried for statement and deposit purposes, whichever amount is smaller.

(f) Real estate acquired in any of the manners described and sanctioned under section 3 of this chapter, or otherwise lawfully held, except paragraph 5 of that section which specifically relates to the acquisition of real estate under this paragraph, shall not be affected in any respect by this paragraph unless such real estate at or subsequent to its acquisition fulfills the conditions and limitations of this paragraph, and is declared by the life insurance company in a writing filed with the department to be an investment under this paragraph. The value of real estate acquired under section 3 of this chapter, or otherwise lawfully held, and invested under this paragraph shall be initially that at which it was carried for statement and deposit purposes under that section.

(g) Neither the cost of each parcel of improved real property nor the aggregate cost of all unimproved real property acquired under the authority of this paragraph may exceed two percent (2%) of the life insurance company's admitted assets. For purposes of this paragraph, "unimproved real property" means land containing no structures intended for commercial, industrial, or residential occupancy, and "improved real property" consists of all land containing any such structure. When applying the limitations of subparagraph (d) of this paragraph, unimproved real property becomes improved real property as soon as construction of any commercial, industrial, or residential structure is so completed as to be capable of producing income. In the event the real property is mortgaged with recourse to the life insurance company or the life insurance company commences a plan of construction upon real property at its own expense or guarantees payment of borrowed funds to be used for such construction, the total project cost of the real property will be used in applying the two percent (2%) test. Further, no more than ten percent (10%) of the life insurance company's admitted assets may be invested in all property, measured by the property value for statement and

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deposit purposes as defined in this paragraph, held under this paragraph at the same time.

9. Deposits of cash in a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or certificates of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

10. Bank and bankers' acceptances and other bills of exchange of kinds and maturities eligible for purchase or rediscount by federal reserve banks.

11. Obligations that are issued, guaranteed, assumed, or supported by a business entity organized under the laws of a domestic jurisdiction and that are rated:

(a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);

(b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);

(c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or

(d) 1 or 2 by the Securities Valuation Office.

Investments may also be made under this paragraph in obligations that have not received a rating if the earnings available for fixed charges of the business entity for the period of its five (5) fiscal years next preceding the date of purchase shall have averaged per year not less than one and one-half (1 1/2) times its average annual fixed charges applicable to such period and if during either of the last two (2) years of such period such earnings available for fixed charges shall have been not less than one and one-half (1 1/2) times its fixed charges for such year. However, if the business entity is a finance company or other lending institution at least eighty percent (80%) of the assets of which are cash and receivables representing loans or discounts made or purchased by it, the multiple shall be one and one-quarter (1 1/4) instead of one and one-half (1 1/2).

11.(A) Obligations issued, guaranteed, or assumed by a business entity organized under the laws of a domestic jurisdiction, which obligations have not received a rating or, if rated, have not received a rating that would qualify the obligations for investment under paragraph 11 of this section. Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

12. Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation organized under the laws of a domestic jurisdiction, which over the period of the seven (7) fiscal

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years immediately preceding the date of purchase earned an average amount per annum at least equal to five percent (5%) of the par value of its common and preferred stock (or, in the case of stocks having no par value, of its issued or stated value) outstanding at date of purchase, or which over such period earned an average amount per annum at least equal to two (2) times the total of its annual interest charges, preferred dividends and dividends guaranteed by it, determined with reference to the date of purchase. No investment shall be made under this paragraph in a stock upon which any dividend is in arrears or has been in arrears for ninety (90) days within the immediately preceding five (5) year period.

13. Common stock of any solvent corporation organized under the laws of a domestic jurisdiction which over the seven (7) fiscal years immediately preceding purchase earned an average amount per annum at least equal to six percent (6%) of the par value of its capital stock (or, in the case of stock having no par value, of the issued or stated value of such stock) outstanding at date of purchase, but the conditions and limitations of this paragraph shall not apply to the special area of investment to which paragraph 23 of this section pertains.

13.(A) Stock or shares of any mutual fund that:

(a) has been in existence for a period of at least five (5) years immediately preceding the date of purchase, has assets of not less than twenty-five million dollars (\$25,000,000) at the date of purchase, and invests substantially all of its assets in investments permitted under this section; or

(b) is a class one money market mutual fund or a class one bond mutual fund.

Investments authorized by this paragraph 13(A) in mutual funds having the same or affiliated investment advisers shall not at any one (1) time exceed in the aggregate ten percent (10%) of the life insurance company's admitted assets. The limitations contained in paragraph 22 of this subsection apply to investments in the types of mutual funds described in subparagraph (a). For the purposes of this paragraph, "class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

The aggregate amount of investments under this paragraph may be limited by the commissioner if the commissioner finds that investments under this paragraph may render the operation of the life insurance company hazardous to the company's policyholders or creditors or to the general public.

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1 14. Loans upon the pledge of any of the investments described in
2 this section other than real estate and those qualifying solely under
3 paragraph 20 of this subsection, but the amount of such a loan shall not
4 exceed seventy-five percent (75%) of the value of the investment
5 pledged.

6 15. Real estate acquired or otherwise lawfully held under the
7 provisions of IC 27-1, except under paragraph 7 or 8 of this subsection,
8 which real estate as an investment shall also include the value of
9 improvements or betterments made thereon subsequent to its
10 acquisition. The value of such real estate for deposit and statement
11 purposes is to be determined in a manner satisfactory to the
12 department.

13 15.(A) Tangible personal property, equipment trust obligations, or
14 other instruments evidencing an ownership interest or other interest in
15 tangible personal property when the life insurance company purchasing
16 such property has admitted assets in excess of twenty-five million
17 dollars (\$25,000,000), and where there is a right to receive determined
18 portions of rental, purchase, or other fixed obligatory payments for the
19 use of such personal property from a corporation whose obligations
20 would be eligible for investment under the provisions of paragraph 11
21 of this subsection, provided that the aggregate of such payments
22 together with the estimated salvage value of such property at the end
23 of its minimum useful life, to be determined in a manner acceptable to
24 the insurance commissioner, and the estimated tax benefits to the
25 insurer resulting from ownership of such property, is adequate to return
26 the cost of the investment in such property, and provided further, that
27 each net investment in tangible personal property for which any single
28 private corporation is obligated to pay rental, purchase, or other
29 obligatory payments thereon does not exceed one-half of one percent
30 (1/2%) of the life insurance company's admitted assets, and the
31 aggregate net investments made under the provisions of this paragraph
32 do not exceed five percent (5%) of the life insurance company's
33 admitted assets.

34 16. Loans to policyholders of the life insurance company in amounts
35 not exceeding in any case the reserve value of the policy at the time the
36 loan is made.

37 17. A life insurance company doing business in a foreign
38 jurisdiction may, if permitted or required by the laws of such
39 jurisdiction, invest funds equal to its obligations in such jurisdiction in
40 investments legal for life insurance companies domiciled in such
41 jurisdiction or doing business therein as alien companies.

42 17.(A) Investments in (i) obligations issued, guaranteed, assumed,

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or supported by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction and (ii) preferred stock and common stock issued by any such business entity, if the obligations of such foreign jurisdiction or business entity, as appropriate, are rated:

- (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);
- (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);
- (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or
- (d) 1 or 2 by the Securities Valuation Office.

If the obligations issued by a business entity organized under the laws of a foreign jurisdiction have not received a rating, investments may nevertheless be made under this paragraph in such obligations and in the preferred and common stock of the business entity if the earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times its average fixed charges applicable to such period, and if during either of the last two (2) years of such period, the earnings available for fixed charges were at least three (3) times its fixed charges for such year. In investments authorized by this paragraph in a single foreign jurisdiction shall not exceed ten percent (10%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, investments authorized by this paragraph denominated in foreign currencies shall not in the aggregate exceed ten percent (10%) of a life insurance company's admitted assets, and investments in any one (1) foreign currency shall not exceed five percent (5%) of the life insurance company's admitted assets. Investments authorized by this paragraph and paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets. This paragraph in no way limits or restricts investments which are otherwise specifically eligible for deposit under this section.

17.(B) Investments in:

- (a) obligations issued, guaranteed, or assumed by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction; and
- (b) preferred stock and common stock issued by a business entity organized under the laws of a foreign jurisdiction;

which investments are not eligible for investment under paragraph 17.(A).

Investments authorized by this paragraph 17(B) shall not in the aggregate exceed five percent (5%) of the life insurance company's

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admitted assets. Subject to section 2.2(g) of this chapter, if investments authorized by this paragraph 17(B) are denominated in a foreign currency, the investments shall not, as to such currency, exceed two percent (2%) of the life insurance company's admitted assets. Investments authorized by this paragraph 17(B) in any one (1) foreign jurisdiction shall not exceed two percent (2%) of the life insurance company's admitted assets.

Investments authorized by paragraph 17(A) of this subsection and this paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets.

18. To protect itself against loss, a company may in good faith receive in payment of or as security for debts due or to become due, investments or property which do not conform to the categories, conditions, limitations, and standards set out above.

19. A life insurance company may purchase for its own benefit any of its outstanding annuity or insurance contracts or other obligations and the claims of holders thereof.

20. A life insurance company may make investments although not conforming to the categories, conditions, limitations, and standards contained in paragraphs 1 through 11, 12 through 19, and 29 through 30.(A) of this subsection, but limited in aggregate amount to the lesser of:

- (a) ten percent (10%) of the company's admitted assets; or
- (b) the aggregate of the company's capital, surplus, and contingency reserves reported on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

This paragraph 20 does not apply to investments authorized by paragraph 11.(A) of this subsection.

20.(A) Investments under paragraphs 1 through 20 and paragraphs 29 through 30.(A) of this subsection are subject to the general conditions, limitations, and standards contained in paragraphs 21 through 28 of this subsection.

21. The following requirements concerning investments:

- (a) Investments in obligations (other than real estate mortgage indebtedness) and capital stock of, and in real estate and tangible personal property leased to, a single corporation, shall not exceed two percent (2%) of the life insurance company's admitted assets, taking into account the provisions of section 2.2(h) of this chapter. The conditions and limitations of this paragraph shall not apply to investments under paragraph 13(A) of this subsection or the special area of investment to which paragraph 23 of this

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subsection pertains.

(b) Investments in securities of a single issuer and the affiliates of the single issuer, other than the government of the United States and subsidiaries of the investing life insurance company that are authorized under IC 27-1-23-2.6, may not exceed three percent (3%) of the life insurance company's admitted assets. Investments in the voting securities of a depository institution or a company that controls a depository institution may not exceed five percent (5%) of the life insurance company's admitted assets.

22. Investments in:

(a) preferred stock; and

(b) common stock;

shall not, in the aggregate, exceed twenty percent (20%) of the life insurance company's admitted assets, exclusive of assets held in segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1. These limitations shall not apply to investments for the special purposes described in paragraph 23 of this subsection nor to investments in connection with segregated accounts provided for in class 1(c) of IC 27-1-5-1.

23. Investments in subsidiary companies must be made in accordance with IC 27-1-23-2.6.

24. No investment, other than commercial bank deposits and loans on life insurance policies, shall be made unless authorized by the life insurance company's board of directors or a committee designated by the board of directors and charged with the duty of supervising loans or investments.

25. No life insurance company shall subscribe to or participate in any syndicate or similar underwriting of the purchase or sale of securities or property or enter into any transaction for such purchase or sale on account of said company, jointly with any other corporation, firm, or person, or enter into any agreement to withhold from sale any of its securities or property, but the disposition of its assets shall at all times be within its control. Nothing contained in this paragraph shall be construed to invalidate or prohibit an agreement by two (2) or more companies to join and share in the purchase of investments for bona fide investment purposes.

26. No life insurance company may invest in the stocks or obligations, except investments under paragraphs 9 and 10 of this subsection, of any corporation in which an officer of such life insurance company is either an officer or director. However, this limitation shall not apply with respect to such investments in:

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(a) a corporation which is a subsidiary or affiliate of such life insurance company; or

(b) a trade association, provided such investment meets the requirements of paragraph 5 of this subsection.

27. Except for the purpose of mutualization provided for in section 23 of this chapter, or for the purpose of retirement of outstanding shares of capital stock pursuant to amendment of its articles of incorporation, or in connection with a plan approved by the commissioner for purchase of such shares by the life insurance company's officers, employees, or agents, no life insurance company shall invest in its own stock.

28. In applying the conditions, limitations, and standards prescribed in paragraphs 11, 12, and 13 of this subsection to the stocks or obligations of a corporation which in the seven (7) year period preceding purchase of such stocks or obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations shall be consolidated.

29. A. Before a life insurance company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, or dollar roll transactions, the life insurance company's board of directors must adopt a written plan that includes guidelines and objectives to be followed, including the following:

(1) A description of how cash received will be invested or used for general corporate purposes of the company.

(2) Operational procedures for managing interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.

(3) A statement of the extent to which the company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, and dollar roll transactions.

B. A life insurance company must enter into a written agreement for all transactions authorized by this paragraph, other than dollar roll transactions. The written agreement:

(1) must require the termination of each transaction not more than one (1) year after its inception or upon the earlier demand of the company; and

(2) must be with the counterparty business entity, except that, for securities lending transactions, the agreement may be with an agent acting on behalf of the life insurance company if:

(A) the agent is:

(i) a business entity, the obligations of which are rated BBB-

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or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office;

(ii) a business entity that is a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York; or

(iii) any other business entity approved by the commissioner; and

(B) the agreement requires the agent to enter into with each counterparty separate agreements that are consistent with the requirements of this paragraph.

C. Cash received in a transaction under this paragraph shall be:

(1) invested:

(A) in accordance with this section 2; and

(B) in a manner that recognizes the liquidity needs of the transaction; or

(2) used by the life insurance company for its general corporate purposes.

D. For as long as a transaction under this paragraph remains outstanding, the life insurance company or its agent or custodian shall maintain, as to acceptable collateral received in the transaction, either physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company, or another securities depository approved by the commissioner:

(1) possession of the acceptable collateral;

(2) a perfected security interest in the acceptable collateral; or

(3) in the case of a jurisdiction outside the United States:

(A) title to; or

(B) rights of a secured creditor to;

the acceptable collateral.

E. The limitations set forth in paragraphs 17 and 21 of this subsection do not apply to transactions under this paragraph 29. For purposes of calculations made to determine compliance with this paragraph, no effect may be given to the future obligation of the life insurance company to:

(1) resell securities, in the case of a repurchase transaction; or

(2) repurchase securities, in the case of a reverse repurchase transaction.

F. A life insurance company shall not enter into a transaction under

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1 this paragraph if, as a result of the transaction, and after giving effect
2 to the transaction:

3 (1) the aggregate amount of securities then loaned, sold to, or
4 purchased from any one (1) business entity under this paragraph
5 would exceed five percent (5%) of the company's admitted assets
6 (but in calculating the amount sold to or purchased from a
7 business entity under repurchase or reverse repurchase
8 transactions, effect may be given to netting provisions under a
9 master written agreement); or

10 (2) the aggregate amount of all securities then loaned, sold to, or
11 purchased from all business entities under this paragraph would
12 exceed forty percent (40%) of the admitted assets of the company
13 (provided, however, that this limitation does not apply to a reverse
14 repurchase transaction if the borrowing is used to meet
15 operational liquidity requirements resulting from an officially
16 declared catastrophe and is subject to a plan approved by the
17 commissioner).

18 G. The following collateral requirements apply to all transactions
19 under this paragraph:

20 (1) In a securities lending transaction, the life insurance company
21 must receive acceptable collateral having a market value as of the
22 transaction date at least equal to one hundred two percent (102%)
23 of the market value of the securities loaned by the company in the
24 transaction as of that date. If at any time the market value of the
25 acceptable collateral received from a particular business entity is
26 less than the market value of all securities loaned by the company
27 to that business entity, the business entity shall be obligated to
28 deliver additional acceptable collateral to the company, the
29 market value of which, together with the market value of all
30 acceptable collateral then held in connection with all securities
31 lending transactions with that business entity, equals at least one
32 hundred two percent (102%) of the market value of the loaned
33 securities.

34 (2) In a reverse repurchase transaction, other than a dollar roll
35 transaction, the life insurance company must receive acceptable
36 collateral having a market value as of the transaction date equal
37 to at least ninety-five percent (95%) of the market value of the
38 securities transferred by the company in the transaction as of that
39 date. If at any time the market value of the acceptable collateral
40 received from a particular business entity is less than ninety-five
41 percent (95%) of the market value of all securities transferred by
42 the company to that business entity, the business entity shall be

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obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all reverse repurchase transactions with that business entity, equals at least ninety-five percent (95%) of the market value of the transferred securities.

(3) In a dollar roll transaction, the life insurance company must receive cash in an amount at least equal to the market value of the securities transferred by the company in the transaction as of the transaction date.

(4) In a repurchase transaction, the life insurance company must receive acceptable collateral having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction shall not be:

- (A) sold in a reverse repurchase transaction;
- (B) loaned in a securities lending transaction; or
- (C) otherwise pledged.

30. A life insurance company may invest in obligations or interests in trusts or partnerships regardless of the issuer, which are secured by:

- (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or
- (b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

For the purposes of this paragraph 30, collateral may be substituted for other collateral if it is in the same amount with the same or greater interest rate and qualifies as collateral under subparagraph (a) or (b) of this paragraph.

30.(A) A life insurance company may invest in obligations or interests in trusts or partnerships, regardless of the issuer, secured by any form of collateral other than that described in subparagraphs (a) and (b) of paragraph 30 of this subsection, which obligations or

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interests in trusts or partnerships are rated:

- (a) A- or higher by Standard & Poor's Corporation or Duff and Phelps, Inc.;
- (b) A 3 or higher by Moody's Investor Service, Inc.; or
- (c) 1 by the Securities Valuation Office.

Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

31.A. A life insurance company may invest in short-term pooling arrangements as provided in this paragraph.

B. The following definitions apply throughout this paragraph:

(1) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.

(2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Qualified bank" means a national bank, state bank, or trust company that at all times is not less than adequately capitalized as determined by standards adopted by United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

C. A life insurer may participate in investment pools qualified under this paragraph that invest only in:

- (1) obligations that are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office, and have:

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(A) a remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or

(B) a remaining maturity of three (3) years or less and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index (for example, federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR) or commercial paper) and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

(2) government money market mutual funds or class one money market mutual funds; or

(3) securities lending, repurchase, and reverse repurchase and dollar roll transactions that meet the requirements of paragraph 29 of this subsection and any applicable regulations of the department;

provided that the investment pool shall not acquire investments in any one (1) business entity that exceed ten percent (10%) of the total assets of the investment pool.

D. For an investment pool to be qualified under this paragraph, the investment pool shall not:

(1) acquire securities issued, assumed, guaranteed, or insured by the life insurance company or an affiliate of the company; or

(2) borrow or incur any indebtedness for borrowed money, except for securities lending, reverse repurchase, and dollar roll transactions that meet the requirements of paragraph 29 of this subsection.

E. A life insurance company shall not participate in an investment pool qualified under this paragraph if, as a result of and after giving effect to the participation, the aggregate amount of participation then held by the company in all investment pools under this paragraph and section 2.4 of this chapter would exceed thirty-five percent (35%) of its admitted assets.

F. For an investment pool to be qualified under this paragraph:

(1) the manager of the investment pool must:

(A) be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, and designated as the pool manager in a pooling agreement; and

(B) be the life insurance company, an affiliated company, a

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- 1 business entity affiliated with the company, or a qualified bank
 2 or a business entity registered under the Investment Advisors
 3 Act of 1940 (15 U.S.C. 80a-I et seq.);
- 4 (2) the pool manager or an entity designated by the pool manager
 5 of the type set forth in subdivision (1) of this subparagraph F shall
 6 compile and maintain detailed accounting records setting forth:
- 7 (A) the cash receipts and disbursements reflecting each
 8 participant's proportionate participation in the investment pool;
 9 (B) a complete description of all underlying assets of the
 10 investment pool (including amount, interest rate, maturity date
 11 (if any) and other appropriate designations); and
 12 (C) other records which, on a daily basis, allow third parties to
 13 verify each participant's interest in the investment pool; and
- 14 (3) the assets of the investment pool shall be held in one (1) or
 15 more accounts, in the name of or on behalf of the investment pool,
 16 under a custody agreement or trust agreement with a qualified
 17 bank, which must:
- 18 (A) state and recognize the claims and rights of each
 19 participant;
 20 (B) acknowledge that the underlying assets of the investment
 21 pool are held solely for the benefit of each participant in
 22 proportion to the aggregate amount of its participation in the
 23 investment pool; and
 24 (C) contain an agreement that the underlying assets of the
 25 investment pool shall not be commingled with the general
 26 assets of the qualified bank or any other person.
- 27 G. The pooling agreement for an investment pool qualified under
 28 this paragraph must be in writing and must include the following
 29 provisions:
- 30 (1) Insurers, subsidiaries, or affiliates of insurers holding interests
 31 in the pool, or any pension or profit sharing plan of such insurers
 32 or their subsidiaries or affiliates, shall, at all times, hold one
 33 hundred percent (100%) of the interests in the investment pool.
- 34 (2) The underlying assets of the investment pool shall not be
 35 commingled with the general assets of the pool manager or any
 36 other person.
- 37 (3) In proportion to the aggregate amount of each pool
 38 participant's interest in the investment pool:
- 39 (A) each participant owns an undivided interest in the
 40 underlying assets of the investment pool; and
 41 (B) the underlying assets of the investment pool are held solely
 42 for the benefit of each participant.

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(4) A participant or (in the event of the participant's insolvency, bankruptcy, or receivership) its trustee, receiver, or other successor-in-interest may withdraw all or any portion of its participation from the investment pool under the terms of the pooling agreement.

(5) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter. Payments upon withdrawals under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide for such payments to be made to the participants in one

(1) of the following forms, at the discretion of the pool manager:

(A) in cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(B) in kind, a pro rata share of each underlying asset; or

(C) in a combination of cash and in kind distributions, a pro rata share in each underlying asset.

(6) The records of the investment pool shall be made available for inspection by the commissioner.

SECTION 13. IC 27-1-12-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 43. (a) As used in this section, "life insurance policy" means:

(1) an individual life insurance policy other than a credit life insurance policy; or

(2) an individual policy of variable life insurance; that is sold after June 30, 1994.

(b) No life insurance policy may be issued in Indiana or issued for delivery in Indiana unless it contains a provision allowing the policyholder to return the policy to:

(1) the insurer;

(2) the ~~agent~~ **insurance producer** through whom the policy was purchased; or

(3) any agent of the insurer;

within ten (10) days after the policy is received by the policyholder for a full refund of all money paid by the policyholder.

(c) Each life insurance policy must have prominently printed on its first page a notice setting forth in substance the provisions of subsection (b).

SECTION 14. IC 27-1-12.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 5. Each annuity contract shall contain a provision giving the



1 purchaser an unrestricted right to return the contract to the company or
 2 to the ~~agent~~ **insurance producer** through whom it was purchased, on
 3 or before the tenth day after it is received by the purchaser, such return
 4 entitling the purchaser to a return of the value of a variable annuity
 5 account or the monies paid by the purchaser to a fixed account in
 6 connection with the issuance of the contract. This provision shall be
 7 conspicuously placed on the face of the contract. This provision does
 8 not apply to contracts issued in connection with a pension, annuity, or
 9 profit-sharing plan qualified or exempt under Sections 401, 403, 404,
 10 or 501 of the Internal Revenue Code, if participation in the plan is a
 11 condition of employment.

12 SECTION 15. IC 27-1-13-3 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The following
 14 definitions apply throughout this section:

15 (1) "Acceptable collateral" means the following:

16 (A) As to securities lending transactions and for the purpose
 17 of calculating counterparty exposure:

- 18 (i) cash;
- 19 (ii) cash equivalents;
- 20 (iii) letters of credit; and
- 21 (iv) direct obligations of, or securities that are fully
 22 guaranteed as to principal and interest by, the government of
 23 the United States or any agency of the United States,
 24 including the Federal National Mortgage Association and
 25 the Federal Home Loan Mortgage Corporation.

26 (B) As to lending foreign securities, sovereign debt rated 1 by
 27 the Securities Valuation Office.

28 (C) As to repurchase transactions:

- 29 (i) cash;
- 30 (ii) cash equivalents; and
- 31 (iii) direct obligations of, or securities that are fully
 32 guaranteed as to principal and interest by, the government of
 33 the United States or any agency of the United States,
 34 including the Federal National Mortgage Association and
 35 the Federal Home Loan Mortgage Corporation.

36 (D) As to reverse repurchase transactions:

- 37 (i) cash; and
- 38 (ii) cash equivalents.

39 (2) "Admitted assets" means assets permitted to be reported as
 40 admitted assets on the statutory financial statement of the insurer
 41 most recently required to be filed with the commissioner.

42 (3) "Business entity" means any of the following:

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- 1 (A) A sole proprietorship.
- 2 (B) A corporation.
- 3 (C) A limited liability company.
- 4 (D) An association.
- 5 (E) A general partnership.
- 6 (F) A limited partnership.
- 7 (G) A limited liability partnership.
- 8 (H) A joint stock company.
- 9 (I) A joint venture.
- 10 (J) A trust.
- 11 (K) A joint tenancy.
- 12 (L) Any other similar form of business organization, whether
- 13 for profit or nonprofit.
- 14 (4) "Cash" means any of the following:
- 15 (A) United States denominated paper currency and coins.
- 16 (B) Negotiable money orders and checks.
- 17 (C) Funds held in any time or demand deposit in any
- 18 depository institution, the deposits of which are insured by the
- 19 Federal Deposit Insurance Corporation.
- 20 (5) "Cash equivalent" means any of the following:
- 21 (A) A certificate of deposit issued by a depository institution,
- 22 the deposits of which are insured by the Federal Deposit
- 23 Insurance Corporation.
- 24 (B) A banker's acceptance issued by a depository institution,
- 25 the deposits of which are insured by the Federal Deposit
- 26 Insurance Corporation.
- 27 (C) A government money market mutual fund.
- 28 (D) A class one (1) money market mutual fund.
- 29 (6) "Class one (1) money market mutual fund" means a money
- 30 market mutual fund that at all times qualifies for investment using
- 31 the bond class one (1) reserve factor pursuant to the Purposes and
- 32 Procedures of the Securities Valuation Office of the National
- 33 Association of Insurance Commissioners or any successor
- 34 publication.
- 35 (7) "Government money market mutual fund" means a money
- 36 market mutual fund that at all times:
- 37 (A) invests only in obligations issued, guaranteed, or insured
- 38 by the United States or collateralized repurchase agreements
- 39 composed of these obligations; and
- 40 (B) qualifies for investment without a reserve pursuant to the
- 41 Purposes and Procedures of the Securities Valuation Office of
- 42 the National Association of Insurance Commissioners or any

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- 1 successor publication.
- 2 (8) "Money market mutual fund" means a mutual fund that meets
- 3 the conditions of 17 CFR 270.2a-7, under the Investment
- 4 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 5 (9) "Mutual fund" means:
- 6 (A) an investment company; or
- 7 (B) in the case of an investment company that is organized as
- 8 a series company, an investment company series;
- 9 that is registered with the United States Securities and Exchange
- 10 Commission under the Investment Company Act of 1940 (15
- 11 U.S.C. 80a-1 et seq.).
- 12 (10) "Obligation" means any of the following:
- 13 (A) A bond.
- 14 (B) A note.
- 15 (C) A debenture.
- 16 (D) Any other form of evidence of debt.
- 17 (11) "Qualified business entity" means a business entity that is:
- 18 (A) an issuer of obligations or preferred stock that is rated one
- 19 (1) or two (2) or is rated the equivalent of one (1) or two (2) by
- 20 the Securities Valuation Office or by a nationally recognized
- 21 statistical rating organization recognized by the Securities
- 22 Valuation Office; or
- 23 (B) a primary dealer in United States government securities,
- 24 recognized by the Federal Reserve Bank of New York.
- 25 (12) "Securities Valuation Office" refers to the Securities
- 26 Valuation Office of the National Association of Insurance
- 27 Commissioners or any successor of the Office established by the
- 28 National Association of Insurance Commissioners.
- 29 (b) Any company, other than one organized as a life insurance
- 30 company, organized under the provisions of IC 27-1 or any other law
- 31 of this state and authorized to make any or all kinds of insurance
- 32 described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or
- 33 guaranty fund as follows and not otherwise:
- 34 (1) In cash.
- 35 (2) In:
- 36 (A) direct obligations of the United States; or
- 37 (B) obligations secured or guaranteed as to principal and
- 38 interest by the United States.
- 39 (3) In:
- 40 (A) direct obligations; or
- 41 (B) obligations secured by the full faith and credit;
- 42 of any state of the United States or the District of Columbia.

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(4) In obligations of any county, township, city, town, village, school district, or other municipal district within the United States which are a direct obligation of the county, township, city, town, village, or district issuing the same.

(5) In obligations secured by mortgages or deeds of trust or unencumbered real estate or perpetual leases thereon in the United States not exceeding eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any such governmental units. Where improvements on the land constitute a part of the value on which the loan is made, the improvements shall be insured against fire and tornado for the benefit of the mortgagee. For the purposes of this section, real estate may not be deemed to be encumbered by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights-of-way, joint driveways, sewer rights, rights-in-walls, nor by reason of building restrictions, or other restrictive covenants, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner. The restrictions contained in this subdivision do not apply to loans or investments made under section 5 of this chapter.

(c) Any company organized under the provisions of this article or any other law of this state and authorized to make any or all of the kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall invest its funds over and above its required capital stock or required guaranty fund as follows, and not otherwise:

(1) In cash or cash equivalents. However, not more than ten percent (10%) of admitted assets may be invested in any single government money market mutual fund or class one (1) money market mutual fund.

(2) In direct obligations of the United States or obligations secured or guaranteed as to principal and interest by the United States.

(3) In obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision

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1 of a state, territory, or possession of the United States, the District
 2 of Columbia, Canada, or any province of Canada, providing such
 3 obligations are authorized by law and are either:

4 (A) direct and general obligations of the issuing, guaranteeing,
 5 or insuring governmental unit, administration, agency,
 6 authority, district, subdivision, or instrumentality;

7 (B) payable from designated revenues pledged to the payment
 8 of the principal and interest of the obligations; or

9 (C) improvement bonds or other obligations constituting a first
 10 lien, except for tax liens, against all of the real estate within
 11 the improvement district or on that part of such real estate not
 12 discharged from such lien through payment of the assessment.

13 The area to which the improvement bonds or other obligations
 14 under clause (C) relate must be situated within the limits of a
 15 town or city and at least fifty percent (50%) of the properties
 16 within that area must be improved with business buildings or
 17 residences.

18 (4) In:

19 (A) direct obligations; or

20 (B) obligations secured by the full faith and credit;

21 of any state of the United States, the District of Columbia, or
 22 Canada or any province thereof.

23 (5) In obligations guaranteed, supported, or insured as to principal
 24 and interest by the United States, any state, territory, or
 25 possession of the United States, the District of Columbia, Canada,
 26 any province of Canada, or by an administration, agency,
 27 authority, or instrumentality of any of the political units listed in
 28 this subdivision. An obligation is "supported" for the purposes of
 29 this subdivision when repayment of the obligation is secured by
 30 real or personal property of value at least equal to the principal
 31 amount of the indebtedness by means of mortgage, assignment of
 32 vendor's interest in one (1) or more conditional sales contracts,
 33 other title retention device, or by means of other security interest
 34 in the property for the benefit of the holder of the obligation, and
 35 one (1) of the political units listed in this subdivision, or an
 36 administration, agency, authority, or instrumentality listed in this
 37 subdivision, has entered into a firm agreement to rent or use the
 38 property pursuant to which entity is obligated to pay money as
 39 rental or for the use of the property in amounts and at times that
 40 are sufficient, after provision for taxes upon and for other
 41 expenses of the use of the property, to repay in full the
 42 indebtedness, both principal and interest, and when the firm

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1 agreement and the money obligated to be paid under the
 2 agreement are assigned, pledged, or secured for the benefit of the
 3 holder of the obligation. However, where the security consists of
 4 a first mortgage lien or deed of trust on a fee interest in real
 5 property, the obligation may provide for the amortization, during
 6 the initial fixed period of the lease or contract of less than one
 7 hundred percent (100%) of the indebtedness if there is pledged or
 8 assigned, as additional security for the obligation, sufficient
 9 rentals payable under the lease, or of contract payments, to secure
 10 the amortized obligation payments required during the initial,
 11 fixed period of the lease or contract, including but not limited to
 12 payments of principal, interest, and taxes other than the income
 13 taxes of the borrower, and if there is to be left unamortized at the
 14 end of the period an amount not greater than the original
 15 appraised value of the land only, exclusive of all improvements,
 16 as prescribed by law.

17 (6) In obligations secured by mortgages or deeds of trust or
 18 unencumbered real estate or perpetual leases thereon, in any state
 19 in the United States, the District of Columbia, Canada, or any
 20 province of Canada, not exceeding eighty percent (80%) of the
 21 fair value of the security determined in a manner satisfactory to
 22 the department, except that the percentage stated may be
 23 exceeded if and to the extent that the excess is guaranteed or
 24 insured by the United States, any state, territory, or possession of
 25 the United States, the District of Columbia, Canada, any province
 26 of Canada, or by an administration, agency, authority, or
 27 instrumentality of any of such governmental units. The value of
 28 the real estate must be determined by a method and in a manner
 29 satisfactory to the department. The restrictions contained in this
 30 subdivision do not apply to loans or investments made under
 31 section 5 of this chapter.

32 (7) In obligations issued under or pursuant to the Farm Credit Act
 33 of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on
 34 December 31, 1990, or the Federal Home Loan Bank Act (12
 35 U.S.C. 1421 through 1449) as in effect on December 31, 1990,
 36 interest bearing obligations of the FSLIC Resolution Fund and
 37 shares of any institution that is insured by the Savings Association
 38 Insurance Fund of the Federal Deposit Insurance Corporation to
 39 the extent that the shares are insured, obligations issued or
 40 guaranteed by the International Bank for Reconstruction and
 41 Development, obligations issued or guaranteed by the
 42 Inter-American Development Bank, and obligations issued or

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1 guaranteed by the African Development Bank.

2 (8) In any mutual fund that:

3 (A) has been registered with the Securities and Exchange
4 Commission for a period of at least five (5) years immediately
5 preceding the date of purchase;

6 (B) has net assets of at least twenty-five million dollars
7 (\$25,000,000) on the date of purchase; and

8 (C) invests substantially all of its assets in investments
9 permitted under this subsection.

10 The amount invested in any single mutual fund shall not exceed
11 ten percent (10%) of admitted assets. The aggregate amount of
12 investments under this subdivision may be limited by the
13 commissioner if the commissioner finds that investments under
14 this subdivision may render the operation of the company
15 hazardous to the company's policyholders, to the company's
16 creditors, or to the general public. This subdivision in no way
17 limits or restricts investments that are otherwise specifically
18 permitted under this section.

19 (9) In obligations payable in United States dollars and issued,
20 guaranteed, assumed, insured, or accepted by a foreign
21 government or by a solvent business entity existing under the laws
22 of a foreign government, if the obligations of the foreign
23 government or business entity meet at least one (1) of the
24 following criteria:

25 (A) The obligations carry a rating of at least A3 conferred by
26 Moody's Investor Services, Inc.

27 (B) The obligations carry a rating of at least A- conferred by
28 Standard & Poor's Corporation.

29 (C) The earnings available for fixed charges of the business
30 entity for a period of five (5) fiscal years preceding the date of
31 purchase have averaged at least three (3) times the average
32 fixed charges of the business entity applicable to the period,
33 and if during either of the last two (2) years of the period, the
34 earnings available for fixed charges were at least three (3)
35 times the fixed charges of the business entity for the year. As
36 used in this subdivision, the terms "earnings available for fixed
37 charges" and "fixed charges" have the meanings set forth in
38 IC 27-1-12-2(a).

39 Foreign investments authorized by this subdivision shall not
40 exceed twenty percent (20%) of the company's admitted assets.
41 This subdivision in no way limits or restricts investments that are
42 otherwise specifically permitted under this section. Canada is not

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1 a foreign government for purposes of this subdivision.

2 (10) In the obligations of any solvent business entity existing
3 under the laws of the United States, any state of the United States,
4 the District of Columbia, Canada, or any province of Canada,
5 provided that interest on the obligations is not in default.

6 (11) In the preferred or guaranteed shares of any solvent business
7 entity, so long as the business entity is not and has not been for
8 the preceding five (5) years in default in the payment of interest
9 due and payable on its outstanding debt or in arrears in the
10 payment of dividends on any issue of its outstanding preferred or
11 guaranteed stock.

12 (12) In the shares, other than those specified in subdivision (7), of
13 any solvent business entity existing under the laws of any state of
14 the United States, the District of Columbia, Canada, or any
15 province of Canada, and in the shares of any institution wherever
16 located which has the insurance protection provided by the
17 Savings Association Insurance Fund of the Federal Deposit
18 Insurance Corporation. Except for the purpose of mutualization
19 or for the purpose of retirement of outstanding shares of capital
20 stock pursuant to amendment of its articles of incorporation, or in
21 connection with a plan approved by the commissioner for
22 purchase of such shares by the insurance company's officers,
23 employees, or agents, or for the elimination of fractional shares,
24 no company subject to the provisions of this section may invest in
25 its own stock.

26 (13) In loans upon the pledge of any mortgage, stocks, bonds, or
27 other evidences of indebtedness, acceptable as investments under
28 the terms of this chapter, if the current value of the mortgage,
29 stock, bond, or other evidences of indebtedness is at least
30 twenty-five percent (25%) more than the amount loaned on it.

31 (14) In real estate, subject to subsections (d) and (e).

32 (15) In securities lending, repurchase, and reverse repurchase
33 transactions with business entities, subject to the following
34 requirements:

35 (A) The company's board of directors shall adopt a written
36 plan that specifies guidelines and objectives to be followed,
37 such as:

38 (i) a description of how cash received will be invested or
39 used for general corporate purposes of the company;

40 (ii) operational procedures to manage interest rate risk,
41 counterparty default risk, and the use of acceptable collateral
42 in a manner that reflects the liquidity needs of the

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transaction; and

(iii) the extent to which the company may engage in these transactions.

(B) The company shall enter into a written agreement for all transactions authorized in this subdivision. The written agreement shall require the termination of each transaction not more than one (1) year from its inception or upon the earlier demand of the company. The agreement shall be with the counterparty business entity but, for securities lending transactions, the agreement may be with an agent acting on behalf of the company if the agent is a qualified business entity and if the agreement:

(i) requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(ii) prohibits securities lending transactions under the agreement with the agent or its affiliates.

(C) Cash received in a transaction under this section shall be invested in accordance with this section and in a manner that recognizes the liquidity needs of the transaction or used by the company for its general corporate purposes. For as long as the transaction remains outstanding, the company or its agent or custodian shall maintain, as to acceptable collateral received in a transaction under this section, either physically or through book entry systems of the Federal Reserve, Depository Trust Company, Participants Trust Company, or other securities depositories approved by the commissioner:

(i) possession of the acceptable collateral;

(ii) a perfected security interest in the acceptable collateral; or

(iii) in the case of a jurisdiction outside the United States, title to, or rights of a secured creditor to, the acceptable collateral.

(D) For purposes of calculations made to determine compliance with this subdivision, no effect may be given to the company's future obligation to resell securities in the case of a repurchase transaction, or to repurchase securities in the case of a reverse repurchase transaction. A company shall not enter into a transaction under this subdivision if, as a result of and after giving effect to the transaction:

(i) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity pursuant to

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1 this subdivision would exceed five percent (5%) of its
2 admitted assets (but, in calculating the amount sold to or
3 purchased from a business entity pursuant to repurchase or
4 reverse repurchase transactions, effect may be given to
5 netting provisions under a master written agreement); or
6 (ii) the aggregate amount of all securities then loaned, sold
7 to, or purchased from all business entities under this
8 subdivision would exceed forty percent (40%) of its
9 admitted assets.

10 (E) In a securities lending transaction, the company shall
11 receive acceptable collateral having a market value as of the
12 transaction date at least equal to one hundred two percent
13 (102%) of the market value of the securities loaned by the
14 company in the transaction as of that date. If at any time the
15 market value of the acceptable collateral is less than the
16 market value of the loaned securities, the business entity shall
17 be obligated to deliver additional acceptable collateral, the
18 market value of which, together with the market value of all
19 acceptable collateral then held in connection with the
20 transaction, at least equals one hundred two percent (102%) of
21 the market value of the loaned securities.

22 (F) In a reverse repurchase transaction, the company shall
23 receive acceptable collateral having a market value as of the
24 transaction date at least equal to ninety-five percent (95%) of
25 the market value of the securities transferred by the company
26 in the transaction as of that date. If at any time the market
27 value of the acceptable collateral is less than ninety-five
28 percent (95%) of the market value of the securities so
29 transferred, the business entity shall be obligated to deliver
30 additional acceptable collateral, the market value of which,
31 together with the market value of all acceptable collateral then
32 held in connection with the transaction, equals at least
33 ninety-five percent (95%) of the market value of the
34 transferred securities.

35 (G) In a repurchase transaction, the company shall receive as
36 acceptable collateral transferred securities having a market
37 value equal to at least one hundred two percent (102%) of the
38 purchase price paid by the company for the securities. If at any
39 time the market value of the acceptable collateral is less than
40 one hundred percent (100%) of the purchase price paid by the
41 company, the business entity shall be obligated to provide
42 additional acceptable collateral, the market value of which,

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together with the market value of all acceptable collateral then held in connection with the transaction, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a company in a repurchase transaction shall not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

(16) In mortgage backed securities, including collateralized mortgage obligations, mortgage pass through securities, mortgage backed bonds, and real estate mortgage investment conduits, adequately secured by a pool of mortgages, which mortgages are fully guaranteed or insured by the government of the United States or any agency of the United States, including the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(17) In mortgage backed securities, including collateralized mortgage obligations, mortgage pass through securities, mortgage backed bonds, and real estate mortgage investment conduits, adequately secured by a pool of mortgages, if the securities carry a rating of at least:

(A) A3 conferred by Moody's Investor Services, Inc.; or

(B) A- conferred by Standard & Poor's Corporation.

The amount invested in any one (1) obligation or pool of obligations described in this subdivision shall not exceed five percent (5%) of admitted assets. The aggregate amount of all investments under this subdivision shall not exceed ten percent (10%) of admitted assets.

(18) Any other investment acquired in good faith as payment on account of existing indebtedness or in connection with the refinancing, restructuring, or workout of existing indebtedness, if taken to protect the interests of the company in that investment.

(19) In any other investment. The total of all investments under this subdivision, except for investments in subsidiary companies under ~~IC 27-2-9~~, **IC 27-1-23-2.6**, may not exceed an aggregate amount of ten percent (10%) of the insurer's admitted assets. Investments are not permitted under this subdivision:

(A) if expressly prohibited by statute; or

(B) in an insolvent organization or an organization in default with respect to the payment of principal or interest on its obligations.

(20) In the case of an insurance company other than a life insurance company, investments in securities of a single issuer and affiliates of the single issuer, other than the government

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1 of the United States and subsidiaries of the investing
 2 insurance company that are authorized under IC 27-1-23-2.6,
 3 may not exceed three percent (3%) of the insurance
 4 company's admitted assets. Investments in the voting
 5 securities of a depository institution or a company that
 6 controls a depository institution may not exceed five percent
 7 (5%) of the insurance company's admitted assets.

8 (d) Any company subject to the provisions of this section shall have
 9 power to acquire, hold, or convey real estate, or an interest therein, as
 10 described below, and no other:

11 (1) Leaseholds, provided the mortgage term shall not exceed
 12 four-fifths (4/5) of the unexpired lease term, including
 13 enforceable renewable options, remaining at the time of the loan,
 14 such real estate or leaseholds to be located in the United States,
 15 any territory or possession of the United States, or Canada, the
 16 value of such leasehold for statement purposes shall be
 17 determined in a manner and form satisfactory to the department.
 18 At the time the leasehold is acquired and approved by the
 19 department, a schedule of annual depreciation shall be set up by
 20 the department in which the value of said leasehold is to be
 21 depreciated, and said depreciation is to be averaged out over not
 22 exceeding a period of fifty (50) years.

23 (2) The building in which it has its principal office and the land
 24 on which it stands.

25 (3) Such as shall be necessary for the convenient transaction of its
 26 business.

27 (4) Such as shall have been acquired for the accommodation of its
 28 business.

29 (5) Such as shall have been mortgaged to it in good faith by way
 30 of security for loans previously contracted or for money due.

31 (6) Such as shall have been conveyed to it in connection with its
 32 investments in real estate contracts or its investments in real
 33 estate under lease or for the purpose of leasing or such as shall
 34 have been acquired for the purpose of investment under any law,
 35 order, or regulation authorizing such investment, for statement
 36 purposes, the value of such real estate shall be determined in a
 37 manner satisfactory to the department.

38 (7) Such as shall have been conveyed to it in satisfaction of debts
 39 previously contracted in the course of its dealings, or in exchange
 40 for real estate so conveyed to it.

41 (8) Such as it shall have purchased at sales on judgments, decrees,
 42 or mortgages obtained or made for such debts.

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(e) All real estate described in subsection (d)(4) through (d)(8) which is not necessary for the convenient transaction of its business shall be sold by said company and disposed of within ten (10) years after it acquired title to the same, or within five (5) years after the same has ceased to be necessary for the accommodation of its business, unless the company procures the certificate of the commissioner that its interests will suffer materially by a forced sale of the real estate, in which event the time for the sale may be extended to such time as the commissioner directs in the certificate.

SECTION 16. IC 27-1-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 11. At all such meetings of the governing body held at Indianapolis, Indiana, as set out in section 10 of this chapter, any aggrieved policyholder, ~~agent~~, **insurance producer**, company, representative, or any other aggrieved person may appear before such meeting to have complaints heard in full, and it shall be the duty of such rating bureau to rectify such conditions as are justly complained of in such manner as is reasonably possible.

SECTION 17. IC 27-1-20-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) As used in this section:

"Agent" means a national bank, a state bank, or a trust company:

(1) that:

(A) maintains an account in the name of the national bank, state bank, or trust company in a clearing corporation; or

(B) is a member of the Federal Reserve System; and

(2) through which a custodian participates in the clearing corporation or the Federal Reserve book-entry system.

With respect to securities issued by an institution organized or existing under the laws of a foreign country or securities used to meet deposit requirements under the laws of a foreign country as a condition of doing business in the foreign country, the term includes a corporation that is organized or existing under the laws of a foreign country and that is legally qualified under the laws of the foreign country to accept custody of securities.

"Securities" means instruments as defined in IC 26-1-8.1-102.

"Clearing corporation" means a corporation (as defined in IC 26-1-8.1-102) ~~except that is organized for the purpose of effecting transactions in securities by computerized book-entry.~~ With respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit



requirements pursuant to the laws of a foreign country as a condition of doing business therein, "Clearing corporation" the term may include a corporation organized or existing under the laws of any foreign country and which is legally qualified under such laws to effect transactions in securities by computerized book entry.

"Custodian" means a national bank, a state bank, or a trust company that, when acting as a custodian under this section:

(1) is adequately capitalized, according to standards adopted by United States banking regulators;

(2) is regulated by state banking laws or is a member of the Federal Reserve System; and

(3) is legally qualified to accept custody of securities under this section.

With respect to securities issued by an institution that is organized or existing under the laws of a foreign country or securities used to meet deposit requirements under the laws of a foreign country as a condition of doing business in the foreign country, the term includes a bank or a trust company that is incorporated or organized under the laws of a foreign country, that is regulated by the foreign country's government, that, when acting as a custodian under this section, is adequately capitalized according to standards adopted by international banking authorities, and that is legally qualified to accept custody of securities.

"Custodied securities" refers to securities deposited as described in subsection (b).

"Direct participant" means a bank, trust company, or safety deposit company approved by the commissioner which maintains an account in its name in a clearing corporation and through which an insurance company participates in a clearing corporation.

"Federal Reserve book-entry system" means the computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and such agencies and instrumentalities, respectively, in Federal Reserve Banks through banks which are members of the Federal Reserve System, or which otherwise have access to such computerized systems.

"Member bank" means a national bank, state bank or trust company which is a member of the Federal Reserve System and through which an insurance company participates in the Federal Reserve book-entry system.

"Securities" has the meaning set forth in IC 26-1-8.1-102.

(b) Notwithstanding any other provision of law, a domestic

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insurance company may deposit or arrange for the safekeeping of securities held in or purchased for its general account and its separate accounts in a clearing corporation or the Federal Reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities, and certificates representing securities of small denominations may be merged into one (1) or more certificates of larger denominations. The records of any member bank through which an insurance company holds securities in the Federal Reserve book-entry system, and the records of any custodian through which an insurance company holds securities in a clearing corporation, shall at all times show that such securities are held for such insurance company and for which accounts thereof. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation or in the Federal Reserve book-entry system without, in either case, physical delivery of certificates representing such securities. shall, by written agreement with a custodian, provide for the deposit of securities of the domestic insurance company with a custodian. Securities deposited under this subsection may be held:

- (1) by the custodian or an agent of the custodian;
- (2) in a clearing corporation; or
- (3) in the Federal Reserve book-entry system.

(c) A written agreement under subsection (b) must be authorized by a resolution of the board of directors or an authorized committee of the board of directors of the domestic insurance company, and the terms of the written agreement must comply with the following:

- (1) Certificated securities that are held by the custodian must be held:
 - (A) separate from the securities of the custodian and other customers of the custodian; or
 - (B) in a fungible bulk of securities as part of a filing of securities by issue arrangement.
- (2) Securities held in a fungible bulk by the custodian and securities held in a clearing corporation or in the Federal Reserve book-entry system must be separately identified on the custodian's official records as follows:
 - (A) It must be clear that the securities are owned by the



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- 1 domestic insurance company.
- 2 (B) The record must identify which securities are held:
- 3 (i) by the custodian or by the custodian's agent;
- 4 (ii) in a clearing corporation; and
- 5 (iii) in the Federal Reserve book-entry system.
- 6 (C) If the securities are held in a clearing corporation or in
- 7 the Federal Reserve book-entry system, the record must
- 8 identify:
- 9 (i) where the securities are;
- 10 (ii) if the securities are in a clearing corporation, the
- 11 name of the clearing corporation; and
- 12 (iii) if the securities are held by the custodian's agent, the
- 13 name of the agent.
- 14 (3) Custodied securities that are registered must be
- 15 registered:
- 16 (A) in the name of the domestic insurance company or a
- 17 nominee of the domestic insurance company;
- 18 (B) in the name of the custodian or a nominee of the
- 19 custodian; or
- 20 (C) if the custodied securities are in a clearing corporation,
- 21 in the name of the clearing corporation or a nominee of the
- 22 clearing corporation.
- 23 (4) Custodied securities are held subject to the instructions of
- 24 the domestic insurance company and are withdrawable upon
- 25 the demand of the domestic insurance company. However,
- 26 custodied securities that are used to meet the deposit
- 27 requirements of IC 27-1-6 are, to the extent required by
- 28 IC 27-1-6, under the control of the department and may not
- 29 be withdrawn by the domestic insurance company unless the
- 30 commissioner approves the withdrawal.
- 31 (5) The custodian shall send or cause to be sent, electronically
- 32 or on paper, to the domestic insurance company:
- 33 (A) a confirmation of transfers of custodied securities to or
- 34 from the account of the domestic insurance company;
- 35 (B) reports of holdings of custodied securities:
- 36 (i) at times, but not less than monthly; and
- 37 (ii) containing information;
- 38 reasonably requested by the domestic insurance company;
- 39 and
- 40 (C) annual reports of the custodian's trust committee,
- 41 including the trust committee's review of the domestic
- 42 insurance company's trust accounts.

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1 (6) Upon receipt by the custodian of written instructions from
 2 an officer of the domestic insurance company:

3 (A) an officer or employee of the domestic insurance
 4 company;

5 (B) an independent accountant selected by the domestic
 6 insurance company; or

7 (C) a representative of an appropriate regulatory body;
 8 may examine, during the custodian's regular business hours
 9 and at the custodian's premises, the custodian's records of the
 10 domestic insurance company's custodied securities.

11 (7) The custodian or an agent of the custodian shall send to
 12 the domestic insurance company:

13 (A) reports received from a clearing corporation or the
 14 Federal Reserve book-entry system regarding internal
 15 accounting control of the clearing corporation or the
 16 Federal Reserve book-entry system; and

17 (B) reports reasonably requested by the domestic
 18 insurance company and prepared by outside auditors
 19 concerning the custodian's or the agent's internal
 20 accounting control of custodied securities.

21 (8) The custodian shall maintain records that are sufficient to
 22 determine and verify information that:

23 (A) relates to custodied securities that may be reported in
 24 the domestic insurance company's:

25 (i) annual statement; and

26 (ii) supporting schedules; and

27 (B) is required in an audit of the financial statements of the
 28 domestic insurance company.

29 (9) The custodian shall, upon the written request of an officer
 30 of the domestic insurance company, provide, in a form
 31 acceptable to the commissioner, affidavits concerning
 32 custodied securities.

33 (10) The custodian shall:

34 (A) secure and maintain insurance protection in an amount
 35 adequate to cover the custodian's duties and activities as
 36 custodian for the domestic insurance company's assets;
 37 and

38 (B) affirm in the custody agreement that the insurance
 39 protection under subdivision (A) meets the requirements
 40 of the custodian's banking regulator.

41 The commissioner may determine whether the amount and
 42 type of insurance protection secured and maintained under

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1 this subdivision is adequate and appropriate.

2 (11) The custodian shall indemnify the domestic insurance
3 company for the loss of custodied securities due to:

- 4 (A) negligence or dishonesty of the custodian's officers or
5 employees;
- 6 (B) theft;
- 7 (C) mysterious disappearance;
- 8 (D) damage; or
- 9 (E) destruction.

10 (12) In case of a loss described in subdivision (11), the
11 custodian shall promptly replace the custodied securities or
12 the value of the custodied securities and the value of any loss
13 of rights or privileges that results from the loss of the
14 custodied securities.

15 (13) The written agreement may provide that the custodian is
16 not liable for a failure to take an action required under the
17 written agreement if and to the extent that the taking of the
18 action is prevented or delayed by:

- 19 (A) war, whether declared or not;
- 20 (B) revolution;
- 21 (C) insurrection;
- 22 (D) riot;
- 23 (E) civil commotion;
- 24 (F) act of God;
- 25 (G) accident;
- 26 (H) fire;
- 27 (I) explosion;
- 28 (J) stoppage of labor;
- 29 (K) strikes or other differences with the custodian's
30 employees;
- 31 (L) laws, regulations, orders, or other acts of a
32 governmental authority; or
- 33 (M) other causes beyond the reasonable control of the
34 custodian.

35 (14) If the custodian gains entry in a clearing corporation or
36 in the Federal Reserve book-entry system through an agent,
37 there must be a written agreement between the custodian and
38 the agent under which the agent is subject to the same liability
39 for loss of custodied securities as the custodian. However, if
40 the agent is subject to the laws of a jurisdiction other than the
41 jurisdiction that regulates the custodian, the commissioner
42 may apply to the agent a standard of liability that is different

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1 from the standard of liability that applies to the custodian.

2 (15) The custodian shall provide to the insurer's domiciliary
3 commissioner written notification of:

4 (A) termination of the written agreement; or

5 (B) withdrawal of one hundred percent (100%) of the
6 account assets in any one (1) custody account;

7 not more than three (3) business days after the termination or
8 withdrawal occurs.

9 (d) Any Indiana law requiring an insurance company operating
10 under the laws of Indiana to deposit assets with the department shall be
11 deemed complied with if such deposit is made pursuant to a written
12 agreement between the insurance company and any bank, trust
13 company or a safety deposit company and approved by the
14 commissioner which limits withdrawals to those sanctioned and
15 approved by the department. Deposits so made shall be credited by the
16 department as deposits in its possession on the basis of the insurance
17 company's affidavit describing such deposits as to amount and nature.

18 ~~(d)~~ (e) Notwithstanding any other provisions of law, securities
19 eligible for deposit under the insurance law of this state relating to
20 deposit of securities by an insurance company as a condition of
21 commencing or continuing to do an insurance business in this state
22 may be deposited with a clearing corporation or held in the Federal
23 Reserve book-entry system. Securities deposited with a clearing
24 corporation or held in the Federal Reserve book-entry system and used
25 to meet the deposit requirements under the insurance laws of this state
26 shall be under the control of the commissioner and shall not be
27 withdrawn by the insurance company without the approval of the
28 commissioner. Any insurance company holding such securities in such
29 manner shall provide to the commissioner evidence issued by its
30 custodian or a member bank through which such insurance company
31 has deposited securities with a clearing corporation or held in the
32 Federal Reserve book-entry system, respectively, in order to establish
33 that the securities are actually recorded in an account in the name of the
34 custodian or other direct participant or member bank and evidence that
35 the records of the custodian, other participant or member bank reflect
36 that such securities are held subject to the order of the commissioner.

37 ~~(e)~~ (f) The commissioner of insurance is authorized to promulgate
38 rules and regulations governing the deposit by insurance companies of
39 securities with clearing corporations and in the Federal Reserve
40 book-entry system.

41 SECTION 18. IC 27-1-20-30 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

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1 Sec. 30. (a) No company acting through its officers or members,
 2 attorney-in-fact, or by any other party, no officer of a company acting
 3 on his own behalf and no insurance ~~agent~~, **producer**, broker, or
 4 solicitor, personally or by any other party, shall offer, promise, allow,
 5 give, set off or pay, directly or indirectly, any rebate of or part of the
 6 premium payable on a policy, or any ~~agent's~~ **insurance producer's**
 7 commission thereon, or earnings, profits, dividends or other benefits
 8 founded, arising, accruing, or to accrue thereon or therefrom, or any
 9 special advantage in date of policy or age of issue, or any paid
 10 employment or contract for services of any kind, or any other valuable
 11 consideration or inducement, to or for insurance on any risk in this
 12 state, now or hereafter to be written, or for or upon any renewal of any
 13 such insurance, which is not specified in the policy contract of
 14 insurance, or offer, promise, give, option, sell or purchase any stocks,
 15 bonds, securities, or property, or any dividends or profits accruing or
 16 to accrue thereon, or other thing of value whatsoever as inducement to
 17 insurance or in connection therewith, or any renewal thereof, which is
 18 not specified in the policy. Nothing in this section shall prevent a
 19 company which transacts industrial life insurance on a weekly payment
 20 plan from returning to policyholders who have made a premium
 21 payment for a period of at least one (1) year directly to the company at
 22 its home or district office a percentage of premium which the company
 23 would otherwise have paid for the weekly collection of such premium,
 24 nor shall this section be construed to prevent the taking of a bona fide
 25 obligation, with legal interest, in payment of any premium.

26 (b) No insured person or party or applicant for insurance shall
 27 directly or indirectly, receive or accept, or agree to receive or accept,
 28 any rebate of premium or of any part thereof, or all or any part of any
 29 ~~agent's~~ **insurance producer's** or broker's commission thereon, or any
 30 favor or advantage, or share in any benefit to accrue under any policy
 31 of insurance, or any valuable consideration or inducement, other than
 32 such as are specified in the policy.

33 SECTION 19. IC 27-1-22-2.5, AS AMENDED BY P.L.132-2001,
 34 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 2.5. (a) As used in this
 36 chapter, "exempt commercial policyholder" means an entity that:

- 37 (1) makes written certification to the entity's insurer on a form
- 38 prescribed by the department that the entity is an exempt
- 39 commercial policyholder;
- 40 (2) has purchased the policy of insurance through an insurance
- 41 ~~agent~~ **producer** licensed under IC 27-1-15.6 or IC 27-1-15.8; and
- 42 (3) meets any three (3) of the following criteria:



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(A) Has a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued.

(B) Has a net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year.

(C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued.

(D) Has aggregate annual commercial insurance premiums, excluding any worker's compensation and professional liability insurance premiums, of more than seventy-five thousand dollars (\$75,000) in the preceding fiscal year.

(E) Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year.

(F) Procures commercial insurance with the services of a risk manager.

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted under subdivision (1) and if there has been no significant material change in the entity's status.

(b) As used in this chapter, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager may be:

(1) a full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or

(2) a person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.

SECTION 20. IC 27-1-22-4, AS AMENDED BY P.L.268-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance, other than workers compensation insurance or

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professional liability insurance, issued to exempt commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

(2) its interpretation of any statistical data it relies upon;

(3) the experience of other insurers or rating organizations; or

(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an

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1 agency basis solely on behalf of the requesting subscriber; and
 2 (2) that any member may proceed in the same manner as a
 3 subscriber unless the rating organization shall have adopted a
 4 rule, with the approval of the commissioner:

5 (A) requiring a member, before making an independent filing,
 6 first to request the rating organization to make such filing on
 7 its behalf and requiring the rating organization, within thirty
 8 (30) days after receipt of such request, either:

9 (i) to make such filing as a rating organization filing;

10 (ii) to make such filing on an agency basis solely on behalf
 11 of the requesting member; or

12 (iii) to decline the request of such member; and

13 (B) excluding from membership any insurer which elects to
 14 make any filing wholly independently of the rating
 15 organization.

16 (i) Under such rules as he shall adopt, the commissioner may, by
 17 written order, suspend or modify the requirement of filing as to any
 18 kinds of insurance, or subdivision, or classes of risk, or parts or
 19 combinations of any of the foregoing, the rates for which can not
 20 practicably be filed before they are used. Such orders and rules shall be
 21 made known to insurers and rating organizations affected thereby. The
 22 commissioner may make such examination as he may deem advisable
 23 to ascertain whether any rates affected by such order are excessive,
 24 inadequate, or unfairly discriminatory.

25 (j) Upon the written application of the insured, stating his reasons
 26 therefor, filed with the commissioner, a rate in excess of that provided
 27 by a filing otherwise applicable may be used on any specific risk.

28 (k) An insurer shall not make or issue a policy or contract except in
 29 accordance with filings which are in effect for that insurer or in
 30 accordance with the provisions of this chapter. Subject to the
 31 provisions of section 6 of this chapter, any rates, rating plans, rules,
 32 classifications, or systems in effect on May 31, 1967, shall be
 33 continued in effect until withdrawn by the insurer or rating
 34 organization which filed them.

35 (l) The commissioner shall have the right to make an investigation
 36 and to examine the pertinent files and records of any insurer, insurance
 37 ~~agent, producer,~~ or insured in order to ascertain compliance with any
 38 filing for rate or coverage which is in effect. He shall have the right to
 39 set up procedures necessary to eliminate noncompliance, whether on
 40 an individual policy, or because of a system of applying charges or
 41 discounts which results in failure to comply with such filing.

42 (m) The department may adopt rules to:

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- (1) implement the exemption under subsection (b);
- (2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and
- (3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

- (1) The account number, policy number, or other number used by the insurer to identify the insured.
- (2) The amount of aggregate annual commercial premium.
- (3) The inception date and expiration date of commercial insurance coverage provided by the insurer.
- (4) The criteria in section 2.5(a)(3) of this chapter used to establish the entity as an exempt commercial policyholder.

(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).

SECTION 21. IC 27-1-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 5. (a) Upon his own motion, or upon written request by any insured affected thereby or by any licensed insurance ~~agent~~ **producer** or broker, if such request is made in good faith and states reasonable grounds, the commissioner, if he shall have reason to believe that any filing is not in compliance with the applicable provisions of section 3 of this chapter, or in the case of an alleged violation of section 6 of the chapter if he finds on the basis of the information on file with the department that there has been a prima facie showing of a violation of that section, shall hold a hearing upon not less than ten (10) days written notice to the rating organization or insurer which made the filing in issue, specifying the items and matters to be considered and stating in what manner and to what extent noncompliance is alleged to exist. No other matter or subject shall be considered at such hearing. Only the rating organization or insurer which made such filing and the commissioner may be parties to any hearing or to any judicial appeal resulting therefrom. Within a reasonable time, the commissioner shall notify every person making request as to his decision as to the validity

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of the request and subsequently shall notify every such person of any action which may thereafter be taken with reference to such request.

(b) If, after such hearing, the commissioner finds, based upon a preponderance of the evidence adduced at such hearing and made a part of the record thereof, that such filing is not in compliance with the provisions of section 3 of this chapter, he shall immediately issue a written order to the parties specifying in detail in what respects and upon what evidence such noncompliance exists and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said order shall not affect any contract policy made or issued prior to the expiration of the period set forth in said order.

(c) If after such hearing the commissioner finds that such filing does not violate the provisions of section 3 of this chapter, he shall immediately issue a written order to the parties dismissing the proceedings.

(d) The finding and order of the commissioner shall be made within ninety (90) days after the close of such hearing or within such reasonable time extensions as may be fixed by the commissioner.

(e) No manual of classifications, rule, rate, rating schedule, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, which has been filed pursuant to section 4 of this chapter shall be disapproved if the rates produced thereby meet the requirements of section 3 of this chapter.

(f) All actions of the commissioner under this chapter and all appeals from his action shall be governed by IC 4-21.5, except where a different specific provision is made in this chapter.

SECTION 22. IC 27-1-22-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 7. (a) When a filing or deviation involving a rate adjustment depends upon a change in the relationship between the proposed rates and the anticipated production expense portion thereof from the relationship anticipated under any rates previously filed and currently in effect for the company or rating organization involved, such filing or deviation shall be subject to the provisions of subsection (b).

(b) Each filing or deviation subject to this section shall be on file for a waiting period of twenty (20) days before it becomes effective. If within such waiting period or after hearing as provided in this section, the commissioner finds that the filing or deviation does not meet the requirements of this chapter, he shall send to the insurer or rating organization which made the filing or to the insurer which filed the deviation written notice of disapproval specifying therein in what

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1 respects the filing or deviation fails to meet the requirements of this
 2 chapter and stating that the same shall not become effective. Such
 3 filing or deviation shall be deemed to meet the requirements of this act
 4 unless disapproved:

5 (1) within such waiting period; or

6 (2) if a hearing has been called and written notice thereof given
 7 by the commissioner during such waiting period, then within ten
 8 (10) days after the date of commencement of such hearing.

9 Upon his own motion, or upon timely written request by any **agent**
 10 **insurance producer** or broker of the company or companies to which
 11 such filing or deviation is applicable, if such request is in good faith
 12 and states reasonable grounds, the commissioner may at any time
 13 within the waiting period call a hearing upon not less than ten (10) nor
 14 more than fifteen (15) days written notice to the company or rating
 15 organization making the filing or to the company filing the deviation.
 16 Within ten (10) days after the commencement of such hearing, the
 17 commissioner shall in writing either approve such filing or deviation
 18 or shall disapprove the same as provided in this section.

19 SECTION 23. IC 27-1-22-18 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 21 Sec. 18. No insurer, broker, or **agent insurance producer** shall
 22 knowingly charge, demand, or receive a premium for any policy of
 23 insurance except in accordance with the provisions of this chapter. No
 24 insurer or employee thereof, and no broker or **agent insurance**
 25 **producer** shall pay, allow, or give, directly or indirectly, as an
 26 inducement to insurance, or after insurance has been effected, any
 27 rebate, discount, abatement, credit, or reduction of the premium named
 28 in a policy of insurance, or any special favor or advantage in the
 29 dividends or other benefits to accrue thereon, or any valuable
 30 consideration or inducement whatever, not specified in the policy of
 31 insurance, except to the extent provided for in applicable filings. No
 32 insured named in any policy of insurance shall knowingly receive or
 33 accept, directly or indirectly, any such rebate, discount, abatement,
 34 credit or reduction of premium, or any such special favor or advantage
 35 or valuable consideration or inducement. Nothing in this section shall
 36 be construed as prohibiting the payment of, nor permitting the
 37 regulation of the payment of, commissions or other compensation to
 38 duly licensed **agents insurance producers** and brokers, nor as
 39 prohibiting, or permitting the regulation of, any insurer from allowing
 40 or returning to its participating policyholders or members, dividends or
 41 savings.

42 SECTION 24. IC 27-1-22-19 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 19. Nothing in this chapter abridges or restricts the freedom of
 contract of insurers, ~~agents~~, **insurance producers**, or brokers with
 reference to the amount of commission to be paid to ~~agents~~ **insurance**
producers or brokers by insurers, and such payments are expressly
 authorized.

SECTION 25. IC 27-1-23-2.6, AS ADDED BY P.L.126-2001,
 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2002]: Sec. 2.6. (a) As used in this section, "entity" means:

- (1) a sole proprietorship;
- (2) a corporation;
- (3) a limited liability company;
- (4) a partnership;
- (5) an association;
- (6) a joint stock company;
- (7) a mutual fund;
- (8) a joint venture;
- (9) a trust;
- (10) a joint tenancy;
- (11) an unincorporated organization; or
- (12) a similar entity.

(b) As used in this section, "primary company" means a domestic
 insurance company that beneficially owns more than fifty percent
 (50%) of one (1) or more subsidiary companies.

(c) As used in this section, "subsidiary company" means an entity of
 which more than fifty percent (50%) is beneficially owned by an
 insurance company.

(d) As used in this section, "total investment of the primary
 company" means the total of:

- (1) a direct investment by a primary company in an asset; plus
- (2) the primary company's proportionate share of an investment
 made by a subsidiary company of the primary company.

The primary company's proportionate share must be determined by
 multiplying the amount of the subsidiary company's investment by the
 percentage of the primary company's ownership interest in the
 subsidiary company.

(e) A primary company may, independently or in cooperation with
 another person, organize or acquire one (1) or more subsidiary
 companies.

(f) A subsidiary company of a primary company may conduct
 business of any kind, and the authority to conduct the business is not
 limited because of the status of the subsidiary company as a subsidiary

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company of the primary company.

(g) In addition to investments in common stock, preferred stock, debt obligations, and other securities as permitted under IC 27-1-12-2 or IC 27-1-13-3, a primary company to which this section applies may, directly or through one (1) or more subsidiary companies, also do the following:

(1) Invest in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiary companies, amounts that in total do not exceed the lesser of ten percent (10%) of the primary company's admitted assets or fifty percent (50%) of the primary company's surplus as regards policyholders, if, after the investments, the primary company's surplus as regards policyholders is reasonable in relation to the primary company's outstanding liabilities and adequate to the primary company's financial needs. In calculating the amount of investments permitted under this subdivision:

(A) investments, whether made directly or through one (1) or more subsidiary companies, in domestic or foreign insurance subsidiary companies and health maintenance organizations must be excluded; and

(B) to the extent that expenditures relate to an investment other than an investment described in clause (A), ~~the following must be included:~~

~~(i) Total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary company, including all organizational expenses and contributions to capital and surplus of the subsidiary company, whether or not represented by the purchase of capital stock or issuance of other securities;~~

~~(ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary company subsequent to the subsidiary company's acquisition or formation **must be included.**~~

(2) Notwithstanding subdivision (1), invest an amount in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiary companies engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the primary company, if the subsidiary company agrees to limit the subsidiary company's investment in an asset so that, when combined with the investments of the primary company, the total investment of the

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primary company will not exceed the investment limitations described in subdivision (1) or in any applicable provision of IC 27-1-12-2 or IC 27-1-13-3.

(3) Notwithstanding subdivision (1), with the prior approval of the commissioner, invest a greater amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiary companies, if, after the investment, the primary company's surplus as regards policyholders is reasonable in relation to the primary company's outstanding liabilities and adequate to the primary company's financial needs.

(h) Investments that are made under this section in common stock, preferred stock, debt obligations, or other securities of a subsidiary company are not subject to restrictions or prohibitions under IC 27-1-12-2 or IC 27-1-13-3 that otherwise apply to investments of primary companies.

(i) Before a primary company to which this section applies makes an investment described in subsection (g), a primary company shall make a determination regarding whether the proposed investment meets the applicable requirements by determining the applicable investment limitations as though the investment has been made, considering:

(1) the currently outstanding principal balance on previous investments in debt obligations; and

(2) the value of previous investments in equity securities as of the day that the investments in equity securities were made; net of any return of capital invested.

(j) If a primary company ceases to control a subsidiary company, the primary company shall dispose of any investment in the subsidiary company made under this section not more than:

(1) three (3) years from the time of the cessation of control; or

(2) the period determined appropriate by the commissioner;

unless the investment meets the requirements for investment under any applicable provision of IC 27-1-12-2 or IC 27-1-13-3 and the primary company has notified the commissioner that the investment meets the requirements.

(k) A primary company, at the time of establishing a subsidiary company, must possess:

(1) assets of not less than twenty-five million dollars (\$25,000,000); or

(2) not less than three million five hundred thousand dollars (\$3,500,000) of:

(A) combined capital and surplus in the case of a stock

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company; and

(B) surplus in the case of a mutual company.

(l) The department has the power to:

(1) conduct periodic examinations of a subsidiary company;

(2) require reports that reflect the effect of the condition and operation of a subsidiary company on the financial condition of a primary company; and

(3) make additional examinations or require other reports with respect to a subsidiary company that are necessary to carry out the purposes of this section.

A noninsurance subsidiary company shall annually furnish the department financial statements that are prepared under generally accepted accounting principles and certified by an independent certified public accountant and the department may rely on the statements. If a subsidiary company conducts the business of the subsidiary company in a manner that clearly tends to impair the capital or surplus fund of the primary company, or otherwise makes the operation of the primary company financially unsafe, the department may act under IC 27-1-3-19 with respect to the primary company.

(m) A primary company and a subsidiary company shall, in all respects, stand before the law as separate and distinct companies and neither company is liable to the creditors, policyholders, or stockholders of the other company, acts or omissions of an officer, director, stockholder, or member of either company notwithstanding.

(n) The board of directors and officers of a primary company and a subsidiary company may be identical. However, the affairs of each company shall be carried on separate and distinct from the other company.

(o) A foreign subsidiary company shall be treated in the same manner as other foreign companies, except that the treatment may be withheld or suspended with respect to a subsidiary company that is domiciled in a state that does not treat a:

(1) primary company; or

(2) subsidiary company;

that is domiciled in Indiana in a manner equal to a foreign or domestic company doing business in the other state.

(p) Interests in a subsidiary company that are owned by a primary company must be registered in the name of the primary company except for shares that are required under Indiana law to be registered in the name of another person.

SECTION 26. IC 27-1-25-1, AS AMENDED BY P.L.132-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2002]: Sec. 1. As used in this chapter:

(a) "Administrator", except as provided in section 7.5 of this chapter, means a person who **directly or indirectly underwrites**, collects charges or premiums from, or ~~who~~ adjusts or settles claims on residents of Indiana in connection with life, **annuity**, or health ~~insurance coverage or annuities; whether offered or provided for~~ by an insurer. ~~or a self-funded plan~~. The term "administrator" does not include the following persons:

(1) An employer ~~for its or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees or for the employees of:~~ a

(A) **the employer;**

(B) **the subsidiary; or**

(C) **an affiliated corporation of the employer.**

(2) A union **acting** for its members.

(3) An insurer. ~~including:~~

(A) ~~an insurer operating a health maintenance organization or a limited service health maintenance organization; and~~

(B) ~~the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.~~

(4) ~~A life or health~~ **An insurance agent producer:**

(A) **that is** licensed under IC 27-1-15.6;

(B) **that has:**

(i) **a life; or**

(ii) **an accident and health or sickness;**

qualification under IC 27-1-15.6-7; and

(C) **whose activities are limited exclusively to the sale of insurance.**

(5) A creditor **acting** for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or

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examination by federal or state banking authorities **to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.**

(9) A credit card issuing company that:

(A) advances for; and

(B) collects from, when a credit card holder authorizes the collection;

credit card holders of the credit card issuing company, insurance premiums or charges. from its credit cardholders as long as that company does not adjust or settle claims.

(10) ~~An individual who~~ **A person that** adjusts or settles claims in the normal course of ~~his~~ **the person's** practice or employment as an attorney at law and ~~who that~~ does not collect charges or premiums in connection with life, annuity, or health insurance coverage. ~~or annuities.~~

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(13) A mortgage lender to the extent that the mortgage lender collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(14) A person that:

(A) is licensed as a managing general agent as required under IC 27-1-33; and

(B) acts exclusively within the scope of activities provided for under the license referred to in clause (A).

(15) A person that:

(A) directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on, residents of Indiana in connection with life, annuity, or health coverage provided by an insurer;

(B) is affiliated with the insurer; and

(C) performs the duties specified in clause (A) only according to a contract between the person and the insurer for the direct and assumed life, annuity, or health coverage provided by the insurer.

(b) "Certificate of registration" refers to the certificate required by section 11 of this chapter. "Affiliate" means an entity or a person that:

(1) directly or indirectly through an intermediary controls or



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1 is controlled by; or
 2 (2) is under common control with;
 3 a specified entity or person.
 4 (c) "Church plan" has the meaning set forth in IC 27-8-10-1.
 5 (d) "Commissioner" refers to the insurance commissioner
 6 appointed under IC 27-1-1-2.
 7 ~~(d)~~ (e) "Control" means the direct or indirect possession of the
 8 power to direct or cause the direction of the management and
 9 policies of a person, whether:
 10 (1) through ownership of voting securities;
 11 (2) by contract other than a commercial contract for goods or
 12 nonmanagement services; or
 13 (3) otherwise;
 14 unless the power is the result of an official position with the person
 15 or a corporate office held by the person. Control is presumed to
 16 exist if a person directly or indirectly owns, controls, holds with the
 17 power to vote, or holds proxies representing not less than ten
 18 percent (10%) of the voting securities of another person.
 19 (f) "Covered individual" means an individual who is covered
 20 under a benefit program provided by an insurer.
 21 (g) "Financial institution" means a bank, savings association, credit
 22 union, or any other institution regulated under IC 28 or federal law.
 23 ~~(e)~~ (h) "GAAP" refers to consistently applied United States
 24 generally accepted accounting principles.
 25 (i) "Governmental plan" has the meaning set forth in
 26 IC 27-8-10-1.
 27 (j) "Home state" means the District of Columbia or any state or
 28 territory of the United States in which an administrator is
 29 incorporated or maintains the administrator's principal place of
 30 business. If the place in which the administrator is incorporated or
 31 maintains the administrator's principal place of business is not
 32 governed by a law that is substantially similar to this chapter, the
 33 administrator's home state is another state:
 34 (1) in which the administrator conducts the business of the
 35 administrator; and
 36 (2) that the administrator declares is the administrator's
 37 home state.
 38 (k) "Insurance producer" has the meaning set forth in
 39 IC 27-1-15.6-2.
 40 (l) "Insurer" means:
 41 (1) a person who obtains a certificate of authority under:
 42 (A) IC 27-1-3-20;

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- 1 (B) IC 27-13-3; or
 2 (C) IC 27-13-34; or
 3 (2) an employer that provides life, health, or annuity coverage
 4 in Indiana under a governmental plan or a church plan.
 5 (m) "NAIC" refers to the National Association of Insurance
 6 Commissioners.
 7 (n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.
 8 (o) "Nonresident administrator" means a person that applies
 9 for licensure or that is licensed in a state other than the
 10 administrator's home state.
 11 (p) "Person" means an individual, a corporation, a partnership,
 12 a limited liability company, or an unincorporated association. ~~has the~~
 13 ~~meaning set forth in IC 27-1-15.6-2.~~
 14 (g) "Self-funded plan" means a plan for providing benefits for life,
 15 health, or annuity coverage by a person who is not an insurer.
 16 (q) "Sell" has the meaning set forth in IC 27-1-15.6-2.
 17 (r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.
 18 (s) "Underwrite" refers to the:
 19 (1) acceptance of an employer application or an individual
 20 application for coverage of an individual in accordance with
 21 the written rules of the insurer; or
 22 (2) planning and coordination of a benefit program provided
 23 by an insurer.
 24 (t) "Uniform application" means the current version of the
 25 NAIC uniform application for third party administrators.
 26 SECTION 27. IC 27-1-25-2 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) An administrator
 28 may act only if there is a written agreement between the administrator
 29 and ~~an insurer, employer, employee group, or any other group using the~~
 30 ~~services of an administrator.~~ This agreement must conform to the
 31 requirements of sections 4 through ~~9~~ 10 of this chapter, which apply to
 32 the functions performed by the administrator.
 33 (b) An agreement between an administrator and an insurer
 34 ~~employer, employee group, or any other group~~ must be retained by both
 35 parties as part of their official records for a period of not less than five
 36 (5) years after the termination of the agreement.
 37 (c) When a policy is issued to a trustee, a copy of the trust
 38 agreement and all amendments to it must be:
 39 (1) furnished by the administrator to the insurer ~~employer,~~
 40 ~~employee group, or any other group~~ with which it holds a contract
 41 ~~the administrator has a written agreement;~~ and
 42 (2) retained as part of the official records of the administrator for

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a period of not less than five (5) years after the termination of the trust.

(d) The written agreement **required under subsection (a)** must contain provisions concerning the standard of underwriting required by the insurer. ~~employer, employee group, or any other group that is a party to the agreement.~~

(e) The commissioner may require any written agreement executed by an administrator and an insurer ~~employer, employee group, or any other group~~ to be filed with the department of insurance at the time the administrator applies for a ~~certificate of registration, as required by section 11 of license~~ **under** this chapter. The commissioner may require any written agreement executed subsequent to the original issue of the ~~certificate of registration~~ **license** to the administrator to be filed with the department at the time the administrator is applying for renewal of the ~~certificate of registration~~ **license**.

SECTION 28. IC 27-1-25-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) If an insurer utilizes the services of an administrator:

(1) ~~the payment to the administrator~~ of premiums or charges for ~~insurance coverage paid~~ by or on behalf of the ~~insured covered individual~~ are ~~presumed considered~~ to have been received by the insurer **when paid to the administrator**; and

(2) ~~the payment of~~ claims or return premiums **paid** by the insurer to the administrator are not ~~presumed considered~~ to have been paid to the ~~insured covered individual~~ or claimant until the payment is received by the ~~insured covered individual~~ or claimant.

(b) This section does not limit the rights of an insurer against an administrator resulting from the failure of the administrator to make payments to the insurer, ~~insured parties, covered individuals,~~ or claimants.

SECTION 29. IC 27-1-25-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) ~~For the duration of the agreement and for five (5) years after the termination of an agreement,~~ An administrator: ~~or successor administrator:~~

(1) shall maintain at its principal administrative office books and records of all transactions between ~~it~~ **the administrator and** insurers ~~employers, employee group, or any other group~~ using the ~~services of an administrator for not less than five (5) years after the creation of the books and records; or~~

(2) may transfer the books and records of transactions **between the administrator and an insurer with which the**

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1 administrator has entered into a written agreement under
2 section 2 of this chapter to a new administrator if:

3 (A) the agreement between the administrator and the
4 insurer is canceled; and

5 (B) a written agreement for a transfer of the books and
6 records is made between the administrator and the
7 insurer.

8 If the books and records are transferred to a new administrator
9 under subdivision (2), the new administrator shall acknowledge in
10 writing that the new administrator is responsible for retaining the
11 books and records of the prior administrator as required under
12 subdivision (1). The books and records must be maintained in
13 accordance with generally accepted standards of insurance
14 bookkeeping. record keeping.

15 (b) The commissioner is entitled to inspect all books and records of
16 the administrator for the purpose of examinations and audits. Trade
17 secrets contained within those books and records, including the identity
18 and addresses of policyholders and certificate holders, are to remain
19 confidential. However, the commissioner may use that confidential
20 information in proceedings instituted against the administrator.

21 (c) Any insurer, employer, employee group, or any other group
22 using the services of the administrator is entitled to inspect the books
23 and records of the administrator to the extent necessary for it to fulfill
24 all of its contractual obligations to insured or covered persons. The
25 right of the insurer, employer, employee group, or other group using the
26 services of an administrator under this subsection is subject to any
27 restrictions contained in the written agreement between such party and
28 administrator. An insurer owns records that:

29 (1) are generated by an administrator with which the insurer
30 has entered into a written agreement under section 2 of this
31 chapter; and

32 (2) pertain to the insurer.

33 However, the administrator retains the right to continuing access
34 to books and records necessary to fulfill the administrator's
35 contractual obligations to covered individuals, claimants, and the
36 insurer.

37 (d) An administrator that is licensed under section 11.1 of this
38 chapter shall make available for inspection by the commissioner
39 copies of written agreements with insurers.

40 (e) An administrator that is licensed under section 11.1 of this
41 chapter shall:

42 (1) produce the administrator's accounts, records, and files

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for examination; and

(2) make the administrator's officers available to provide information concerning the affairs of the administrator; whenever reasonably required by the commissioner.

(f) An administrator that is licensed under section 11.1 of this chapter shall immediately notify the commissioner of a material change in:

(1) the ownership or control of the administrator; or

(2) another fact or circumstance that affects the administrator's qualification for a license.

The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.

(g) An administrator that is licensed under section 11.1 of this chapter and that administers a governmental plan or a church plan shall:

(1) maintain a surety bond for the use and benefit of:

(A) the commissioner; and

(B) the insurance regulator of any state in which the administrator is authorized to conduct business; and

(2) cover an individual and a person that has remitted premiums, insurance, charges, or other money to the administrator in the course of the administrator's business; in an amount equal to the greater of one hundred thousand dollars (\$100,000) or ten percent (10%) of the total of funds administered in connection with governmental plans or church plans in Indiana and all other states in which the administrator is authorized to conduct business.

SECTION 30. IC 27-1-25-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. An administrator may use advertising relating to the business underwritten by an insurer only to the extent that the advertising has been approved **in writing** by that insurer **before the advertising is used**.

SECTION 31. IC 27-1-25-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5.5. (a) If an insurer uses the services of an administrator, the insurer is responsible for:

(1) determining the:

(A) benefits;

(B) premium rates;

(C) underwriting criteria; and

(D) claims payment procedures;



that apply to the coverage; and

(2) securing reinsurance.

(b) An insurer shall provide to an administrator, with the written agreement required under section 2 of this chapter:

(1) the rules that the administrator must follow in administering the coverage, as determined under subsection (a); and

(2) the responsibilities of the administrator as to administering the coverage.

(c) An insurer that uses the services of an administrator has sole responsibility for the competent administration of benefit programs provided by the insurer.

(d) If an administrator administers benefits for more than one hundred (100) covered individuals on behalf of an insurer, the insurer shall, not less than semiannually, review the operations of the administrator. At least one (1) of the semiannual reviews must be an on-site audit of the operations of the administrator.

SECTION 32. IC 27-1-25-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) An administrator is a fiduciary in collecting or returning premiums or charges for the ~~party~~ insurer with whom it has a written agreement for administrative services.

(b) Funds collected by the administrator shall be immediately remitted to the person entitled to the funds or deposited in a fiduciary ~~bank~~ account, which shall be established and maintained by the administrator in a federally insured or state insured financial institution.

(c) The administrator shall maintain records clearly showing the deposits and withdrawals from the fiduciary ~~bank~~ account for each ~~party~~ insurer with whom it has a written agreement for administrative services. The administrator shall furnish to the ~~party~~ insurer:

(1) upon ~~his~~ the insurer's request, copies of the required records; and

(2) at intervals specified in the written agreement, a periodic accounting of transactions performed by the administrator pertaining to the business underwritten by the insurer.

(d) Subject to the written agreement required by section 2 of this chapter, withdrawals from the fiduciary ~~bank~~ account shall only be made for the following:

(1) Remittance to an insurer entitled to the funds.

(2) Deposit in an account maintained in the name of the ~~party~~ insurer with whom the administrator has a written agreement.

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(3) Transfer to and deposit in a claims paying account, with claims to be paid as required under section 7 of this chapter.

(4) Payment to a group policyholder for remittance to the insurer entitled to the funds.

(5) Payment to the administrator for its commission, fees, or charges.

(6) Remittance of return premiums to the person entitled to the funds.

(e) An administrator may not pay any claim with money withdrawn from a fiduciary account established under subsection (b) in which premiums or charges are deposited.

SECTION 33. IC 27-1-25-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. All claims paid by an administrator from funds collected on behalf of an insurer shall only be paid on drafts **or checks** authorized by the insurer. ~~All claims paid by the administrator from funds collected on behalf of an employer, an employee group, or any other group shall only be paid on drafts authorized by that party.~~

SECTION 34. IC 27-1-25-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. ~~When an administrator adjusts or settles claims under a policy the administrator's compensation for that policy may not be contingent on claim experience. However, the compensation for an administrator may be based on premiums or charges collected or on the number of claims paid or processed.~~ **(a) An administrator may not enter into an agreement or understanding with an insurer if the effect of the agreement or understanding is to make the amount of a:**

(1) commission;

(2) fee; or

(3) charge;

that is payable to the administrator contingent on savings effected in the adjustment, settlement, and payment of losses covered by the insurer's obligations.

(b) This section does not prevent an administrator from receiving performance based compensation for providing hospital auditing services or other auditing services.

SECTION 35. IC 27-1-25-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. Policies, certificates, booklets, termination notices, or other written communications delivered by an insurer to an administrator for delivery to its ~~policyholders~~ **covered individuals** shall be delivered by the administrator promptly after receipt of instructions from the insurer to

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do so.

SECTION 36. IC 27-1-25-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) An administrator having a written agreement with an insurer shall provide written notice, which must first be approved by the insurer, to ~~the insured covered~~ persons advising them of the relationship among the administrator, the ~~policyholder covered person~~, and the insurer.

(b) ~~An administrator having a written agreement with an employer, an employee group, or any other group shall provide written notice, which must first be approved by that party, to the insured persons advising them of the relationship among the administrator, the policyholder, and the employer, the employee group, or any other group.~~

(c) ~~(b)~~ When the administrator collects premiums or charges, the administrator shall state separately the amount of any premium or charge for insurance coverage specified by the insurer to the person paying the premium or charge. **Additional charges may not be made for a service to the extent that the charge for the service has been paid by the insurer.**

(c) The administrator shall disclose to the insurer:

- (1) charges;
- (2) fees; and
- (3) commissions;

received by the administrator in connection with the provision of administrative services for the insurer, including fees or commissions paid by insurers that provide reinsurance.

SECTION 37. IC 27-1-25-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11.1. (a) If the home state of a person is Indiana, the person shall:

- (1) apply to act as an administrator in Indiana upon the uniform application; and
- (2) receive a license from the commissioner;

before performing the function of an administrator in Indiana.

(b) The uniform application must include or be accompanied by the following:

- (1) Basic organizational documents of the applicant, including:
 - (A) articles of incorporation;
 - (B) articles of association;
 - (C) partnership agreement;
 - (D) trade name certificate;

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- 1 (E) trust agreement;
 2 (F) shareholder agreement;
 3 (G) other applicable documents; and
 4 (H) amendments to the documents specified in clauses (A)
 5 through (G).
 6 (2) Bylaws, rules, regulations, or other documents that
 7 regulate the internal affairs of the applicant.
 8 (3) The NAIC biographical affidavits for individuals who are
 9 responsible for the conduct of affairs of the applicant,
 10 including:
 11 (A) members of the applicant's:
 12 (i) board of directors;
 13 (ii) board of trustees;
 14 (iii) executive committee; or
 15 (iv) other governing board or committee;
 16 (B) principal officers, if the applicant is a corporation;
 17 (C) partners or members, if the applicant is:
 18 (i) a partnership;
 19 (ii) an association; or
 20 (iii) a limited liability company;
 21 (D) shareholders or members that hold, directly or
 22 indirectly, ten percent (10%) or more of the:
 23 (i) voting stock;
 24 (ii) voting securities; or
 25 (iii) voting interest;
 26 of the applicant; and
 27 (E) any other person who exercises control or influence
 28 over the affairs of the applicant.
 29 (4) Financial information reflecting a positive net worth,
 30 including:
 31 (A) audited annual financial statements prepared by an
 32 independent certified public accountant for the two (2)
 33 most recent fiscal years; or
 34 (B) if the applicant has been in business for less than two
 35 (2) fiscal years, financial statements or reports that are:
 36 (i) prepared in accordance with GAAP; and
 37 (ii) certified by an officer of the applicant;
 38 for any completed fiscal years and for any month during
 39 the current fiscal year for which financial statements or
 40 reports have been completed.
 41 If an audited financial statement or report required under
 42 clause (A) or (B) is prepared on a consolidated basis, the

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statement or report must include a columnar consolidating or combining worksheet that includes the amounts shown on the consolidated audited financial statement or report, separately reported on the worksheet for each entity included on the statement or report, and an explanation of consolidating and eliminating entries.

(5) Information determined by the commissioner to be necessary for a review of the current financial condition of the applicant.

(6) A description of the business plan of the applicant, including:

(A) information on staffing levels and activities proposed in Indiana and nationwide; and

(B) details concerning the applicant's ability to provide a sufficient number of experienced and qualified personnel for:

- (i) claims processing;
- (ii) record keeping; and
- (iii) underwriting.

(7) Other information required by the commissioner.

(c) An administrator that applies for licensure under this section shall make copies of written agreements with insurers available for inspection by the commissioner.

(d) An administrator that applies for licensure under this section shall:

(1) produce the administrator's accounts, records, and files for examination; and

(2) make the administrator's officers available to provide information concerning the affairs of the administrator;

whenever reasonably required by the commissioner.

(e) The commissioner may refuse to issue a license under this section if the commissioner determines that:

(1) the administrator or an individual who is responsible for the conduct of the affairs of the administrator:

(A) is not:

- (i) competent;
- (ii) trustworthy;
- (iii) financially responsible; or
- (iv) of good personal and business reputation; or

(B) has had an:

- (i) insurance certificate of authority or insurance license;
- or

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(ii) administrator certificate of authority or administrator license;

denied or revoked for cause by any jurisdiction;

(2) the financial information provided under subsection (b)(4) does not reflect that the applicant has a positive net worth; or

(3) any of the grounds set forth in section 12.4 of this chapter exists with respect to the administrator.

(f) An administrator that applies for a license under this section shall immediately notify the commissioner of a material change in:

(1) the ownership or control of the administrator; or

(2) another fact or circumstance that affects the administrator's qualification for a license.

The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.

(g) An administrator that applies for a license under this section and will administer a governmental plan or a church plan shall obtain a surety bond as required under section 4(g) of this chapter.

(h) A license that is issued under this section is valid until:

(1) the license is:

(A) surrendered; or

(B) suspended or revoked by the commissioner; or

(2) the administrator:

(A) ceases to do business in Indiana; or

(B) is not in compliance with this chapter.

SECTION 38. IC 27-1-25-12.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12.2. (a) A nonresident administrator that:

(1) performs the duties of an administrator in Indiana; and

(2) does not hold a license issued under section 11.1 of this chapter;

shall obtain a nonresident administrator license under this section by filing a uniform application with the commissioner.

(b) Unless the commissioner verifies the nonresident administrator's home state license status through an electronic data base maintained by the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform application filed under subsection (a) must be accompanied by a letter of certification from the nonresident administrator's home state, verifying that the nonresident administrator holds a resident administrator license in the home state.

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1 (c) A nonresident administrator is not eligible for a nonresident
2 administrator license under this section unless the nonresident
3 administrator is licensed as a resident administrator in a home
4 state that has enacted a law that is substantially similar to this
5 chapter.

6 (d) Except as provided in subsections (b) and (h), the
7 commissioner shall issue a nonresident administrator license to a
8 nonresident administrator that makes a filing under subsections (a)
9 and (b) upon receipt of the filing.

10 (e) Unless a nonresident administrator is notified by the
11 commissioner that the commissioner is able to verify the
12 nonresident administrator's home state licensure through an
13 electronic data base described in subsection (b), the nonresident
14 administrator shall:

15 (1) on September 15 of each year, file a statement with the
16 commissioner affirming that the nonresident administrator
17 maintains a current license in the nonresident administrator's
18 home state; and

19 (2) pay a filing fee as required by the commissioner.

20 (f) A nonresident administrator that applies for licensure under
21 this section shall:

22 (1) produce the accounts of the nonresident administrator;

23 (2) produce the records and files of the nonresident
24 administrator for examination; and

25 (3) make the officers of the nonresident administrator
26 available to provide information with respect to the affairs of
27 the nonresident administrator;

28 when reasonably required by the commissioner.

29 (g) A nonresident administrator is not required to hold a
30 nonresident administrator license in Indiana if the nonresident
31 administrator's function in Indiana is limited to the administration
32 of not more than one (1) group plan of life, health, or annuity
33 coverage under which not more than one hundred (100) Indiana
34 residents are covered.

35 (h) The commissioner may refuse to issue or may delay the
36 issuance of a nonresident administrator license if the commissioner
37 determines that:

38 (1) due to events occurring; or

39 (2) based on information obtained;

40 after the nonresident administrator's home state's licensure of the
41 nonresident administrator, the nonresident administrator is unable
42 to comply with this chapter or grounds exist for the home state's

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1 revocation or suspension of the nonresident administrator's home
2 state license.

3 (i) If the commissioner makes a determination described in
4 subsection (h), the commissioner:

5 (1) shall provide written notice of the determination to the
6 insurance regulator of the nonresident administrator's home
7 state; and

8 (2) may delay the issuance of a nonresident administrator
9 license to the nonresident administrator until the
10 commissioner determines that the nonresident administrator
11 is able to comply with this chapter and that grounds do not
12 exist for the home state's revocation or suspension of the
13 nonresident administrator's home state license.

14 SECTION 39. IC 27-1-25-12.3 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2002]: Sec. 12.3. (a) An administrator that is
17 licensed under section 11.1 of this chapter shall, not later than July
18 1 of each year unless the commissioner grants an extension of time
19 for good cause, file a report for the previous calendar year that
20 complies with the following:

21 (1) The report must contain financial information reflecting
22 a positive net worth prepared in accordance with section
23 11.1(b)(4) of this chapter.

24 (2) The report must be in the form and contain matters
25 prescribed by the commissioner.

26 (3) The report must be verified by not less than two (2)
27 officers of the administrator.

28 (4) The report must include the complete names and
29 addresses of insurers with which the administrator had a
30 written agreement during the preceding fiscal year.

31 (5) The report must be accompanied by a filing fee
32 determined by the commissioner.

33 (b) The commissioner shall review a report filed under
34 subsection (a) not later than September 1 of the year in which the
35 report is filed. Upon completion of the review, the commissioner
36 shall:

37 (1) issue a certification to the administrator:

38 (A) indicating that:

39 (i) the financial statement reflects a positive net worth;
40 and

41 (ii) the administrator is currently licensed and in good
42 standing; or

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- (B) noting deficiencies found in the report; or
- (2) update an electronic data base that is maintained by the NAIC or by an affiliate or a subsidiary of the NAIC;
- (A) indicating that the administrator is solvent and in compliance with this chapter; or
- (B) noting deficiencies found in the report.

SECTION 40. IC 27-1-25-12.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 12.4. (a) The commissioner shall deny, suspend, or revoke a license issued under this chapter if the commissioner determines that the administrator:**

- (1) is in unsound financial condition;
- (2) engages in methods or practices in the conduct of the administrator's business so as to render the administrator's continued transaction of business in Indiana hazardous or injurious to covered persons or the public; or
- (3) fails to pay a judgment rendered against the administrator in Indiana not more than sixty (60) days after the judgment is final.

(b) The commissioner may deny, suspend, or revoke a license issued under this chapter if the commissioner determines that:

- (1) the administrator has violated a lawful rule or order of the commissioner or a provision of the insurance laws of Indiana;
- (2) the administrator refuses to be examined or to produce the administrator's accounts, records, and files for examination;
- (3) an individual who is responsible for the conduct of the affairs of the administrator, including:

(A) a member of the administrator's:

- (i) board of directors;
- (ii) board of trustees;
- (iii) executive committee; or
- (iv) other governing board or committee;

(B) a principal officer, if the administrator is a corporation;

(C) a partner or member, if the administrator is:

- (i) a partnership;
- (ii) an association; or
- (iii) a limited liability company;

(D) a shareholder or member that holds, directly or indirectly, ten percent (10%) or more of the:

- (i) voting stock;
- (ii) voting securities; or



1 (iii) voting interest;
 2 of the administrator; or
 3 (E) any other person who exercises control or influence
 4 over the affairs of the administrator;
 5 refuses to provide information with respect to the
 6 administrator's business or to perform another legal
 7 obligation with respect to an examination when required by
 8 the commissioner;
 9 (4) the administrator, without just cause:
 10 (A) refuses to pay proper claims or to perform services
 11 arising under a written agreement;
 12 (B) causes a covered individual to accept less than the
 13 amount due to the covered individual; or
 14 (C) causes a covered individual to employ an attorney or
 15 bring suit against the administrator to secure full payment
 16 or settlement of a proper claim;
 17 (5) the administrator fails to meet a qualification for which
 18 issuance of the administrator's license could have been
 19 refused if the failure had existed and been known by the
 20 commissioner at the time of license issuance;
 21 (6) an individual who is responsible for the conduct of the
 22 affairs of the administrator, including:
 23 (A) a member of the administrator's:
 24 (i) board of directors;
 25 (ii) board of trustees;
 26 (iii) executive committee; or
 27 (iv) other governing board or committee;
 28 (B) a principal officer, if the administrator is a
 29 corporation;
 30 (C) a partner or member, if the administrator is:
 31 (i) a partnership;
 32 (ii) an association; or
 33 (iii) a limited liability company;
 34 (D) a shareholder or member that holds, directly or
 35 indirectly, ten percent (10%) or more of the:
 36 (i) voting stock;
 37 (ii) voting securities; or
 38 (iii) voting interest;
 39 of the administrator; or
 40 (E) any other person who exercises control or influence
 41 over the affairs of the administrator;
 42 is convicted of or enters a plea of guilty or nolo contendere to

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a felony, without regard to whether adjudication is withheld;
 (7) the administrator's license has been suspended or revoked
 in another state; or

(8) the administrator fails to timely file the:

- (A) report required under section 12.3 of this chapter; or
- (B) statement and filing fee required under section 12.2(e)
 of this chapter.

(c) The commissioner may, in the commissioner's discretion and without advance notice or hearing, immediately suspend the license of an administrator if the commissioner finds one (1) or more of the following:

- (1) The administrator is insolvent or financially impaired.
- (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state.
- (3) The financial condition or business practices of the administrator pose an imminent threat to the public health, safety, or welfare of residents of Indiana.

(d) If the commissioner determines that one (1) or more grounds exist for the suspension or revocation of a license issued under this chapter, the commissioner may, instead of suspension or revocation, impose a civil penalty not to exceed twenty-five thousand dollars (\$25,000) upon the administrator. A civil penalty imposed under this subsection may be enforced in the same manner as a civil judgment. Civil penalties collected under this subsection shall be deposited in the state general fund.

SECTION 41. IC 27-1-25-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) Except as provided by section 4(b) of this chapter, and except that all provisions of the written agreement between the administrator and an insurer employer, employee group, or any other group using the services of an administrator shall be treated by the commissioner as confidential and shall not be open to any member of the public for inspection or copying, all documents submitted to the commissioner under this chapter are public documents:

- (1) when filed by the commissioner; or
- (2) thirty (30) days after their receipt by the department.

(b) Any financial information concerning an administrator submitted by an administrator to the commissioner must remain confidential and is not open to any member of the public for inspection or copying. However, the commissioner may use the financial information in a proceeding under section ~~11(b)~~ 12.4 of this chapter.



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1 SECTION 42. IC 27-1-25-15 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) An
 3 administrator acting without ~~the certificate of registration required~~
 4 ~~under section 11 of a license issued under~~ this chapter commits a
 5 Class C infraction.

6 (b) The commissioner shall notify the prosecuting attorney or the
 7 attorney general of Indiana of violations **under subsection (a).**

8 SECTION 43. IC 27-1-25-16 IS ADDED TO THE INDIANA
 9 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2002]: **Sec. 16. (a) A presumption of control**
 11 **arising under section 1(e) of this chapter may be rebutted by a**
 12 **showing made in the manner provided under IC 27-1-23-3(k) that**
 13 **control does not exist in fact.**

14 **(b) In the absence of a presumption that control exists in fact,**
 15 **the commissioner may determine that control exists in fact after:**

- 16 **(1) providing notice and an opportunity to be heard under**
 17 **IC 4-21.5 to all interested parties; and**
- 18 **(2) making specific findings of fact to support the**
 19 **determination.**

20 SECTION 44. IC 27-1-27-1 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 22 Sec. 1. (a) The term "public adjuster" shall include every individual or
 23 corporation who, or which, for compensation or reward, renders advice
 24 or assistance to the insured in the adjustment of a claim or claims for
 25 loss or damages under any policy of insurance covering real or personal
 26 property and any person or corporation who, or which, advertises,
 27 solicits business, or holds itself out to the public as an adjuster of such
 28 claims. However, no public adjuster shall:

- 29 (1) act in any manner in relation to claims for personal injury or
 30 automobile property damage; or
- 31 (2) bind the insured in the settlement of claims.

32 (b) This chapter does not apply to, and the following are not
 33 included in the term "public adjuster":

- 34 (1) An attorney at law admitted to practice in the state of Indiana
 35 who adjusts insurance losses in the course of the practice of his
 36 profession.
- 37 (2) An officer, regular salaried employee, or other representative
 38 of an insurer or of an attorney in fact of any reciprocal insurer of
 39 Lloyd's underwriter licensed to do business in Indiana who adjusts
 40 losses arising under his employer's or principal's own policies.
- 41 (3) An adjustment bureau or association owned and maintained
 42 by insurers to adjust or investigate losses of such insurers, or any



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regular salaried employee who devotes substantially all of his time to the business of such bureau or association.

(4) Any licensed ~~agent~~ **insurance producer** or an authorized insurer or officer or employee of the same who adjusts losses for such insurer, and any ~~agent~~ **insurance producer** or representative of a farmers' mutual insurance company operating under the farmers' mutual insurance laws of this state on behalf of an insurer.

(5) Any independent adjuster representing an insurer.

SECTION 45. IC 27-1-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 4. (a) Each applicant for a certificate of authority as a public adjuster shall file with the commissioner of insurance his, or its, application therefor on forms furnished by the commissioner of insurance, which application shall set forth:

(1) the name and address of the applicant, and if the applicant be a corporation, the name and address of each of its officers and directors;

(2) whether the person is applying as a resident or nonresident;

(3) whether any license or certificate of authority as ~~agent~~, **insurance producer**, broker, public adjuster, or independent adjuster has been issued previously by the commissioner of insurance of the state of Indiana or by the insurance department of any other state, any territorial possession of the United States, or any foreign country to the applicant; and

(4) the business or employment in which the applicant has been engaged for the five (5) years next preceding the date of the application, and the name and address of such business and the name or names and addresses of his employer or employers.

(b) An application for any certificate of authority must be signed and verified under oath by the applicant.

(c) An annual fee of fifty dollars (\$50) is to be paid to the commissioner of insurance by the applicant for such public adjuster's certificate of authority before the application or annual renewal thereof is granted. However, the commissioner may, by rule adopted under IC 4-22-2, change the amount of the fee to an amount necessary to pay all of the direct and indirect costs of administering this chapter. Fees collected shall be used by the department to administer this chapter.

(d) Every public adjuster's certificate of authority shall expire on December 31 of the calendar year in which the same shall have been issued, but if an application for the renewal of such certificate shall have been filed with the commissioner of insurance before January 1

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of any year, the certificate of authority sought to be renewed shall continue in full force and effect until the issuance by the commissioner of insurance of the new certificate applied for or until five (5) days after the commissioner of insurance shall have refused to issue such new certificate and shall have served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered mail directed to the applicant at the place of business specified in the application.

(e) The applicant shall file with the commissioner of insurance a surety bond in a sum equal to ten thousand dollars (\$10,000) payable to the state of Indiana and conditioned on the principal's faithful performance and discharge of his duties under this title and under any rule of the department of insurance. The bond must be renewed annually.

SECTION 46. IC 27-1-34-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 8. (a) A reinsurer may not issue a policy of insurance to a multiple employer welfare arrangement that does not have a certificate of registration from the department.

(b) An **agent insurance producer** licensed by the department may not solicit, offer, or provide coverage through a multiple employer welfare arrangement that does not have a certificate of registration from the department.

(c) A reinsurer or **agent insurance producer** who knows or reasonably should have known that the arrangement does not have a current certificate of registration is liable for any claims for benefits that are due and unpaid.

SECTION 47. IC 27-1-36-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 46. (a) The comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer and it is not intended as a means to rank insurers generally. Except as provided in subsection (b), the action of an insurer, an **agent insurance producer**, a broker, or other person engaged in any manner in the insurance business, in:

- (1) making, publishing, disseminating, circulating, or placing before the public; or
- (2) causing, directly or indirectly to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or

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1 television station, or in any other way;
 2 an advertisement, an announcement, or a statement containing an
 3 assertion, a representation, or a statement regarding the RBC level of
 4 an insurer or any component derived in the calculation of the RBC
 5 level of an insurer is misleading and is prohibited.

6 (b) If:

7 (1) a materially false statement with respect to the comparison
 8 regarding an insurer's total adjusted capital to an RBC level of the
 9 insurer or an inappropriate comparison of any other amount to the
 10 insurer's RBC levels is published in any written publication; and
 11 (2) the insurer is able to demonstrate to the commissioner with
 12 substantial proof the:

13 (A) falsity; or

14 (B) inappropriateness;

15 of the statement;

16 the insurer may publish an announcement in a written publication if the
 17 sole purpose of the announcement is to rebut the materially false
 18 statement.

19 SECTION 48. IC 27-2-17-3 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

21 Sec. 3. As used in this chapter, "~~independent agent~~" **insurance**
 22 **producer**" means an ~~agent~~ **insurance producer** who:

23 (1) represents an insurer in the sale of insurance as an
 24 independent contractor rather than as an employee; and

25 (2) is not limited to representing:

26 (A) one (1) insurer; or

27 (B) several insurers that are under common management.

28 SECTION 49. IC 27-2-17-6 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

30 Sec. 6. (a) An insurance company that issues property or casualty
 31 insurance shall not discriminate in the appointment of an independent
 32 ~~agent~~ **insurance producer** on the basis of race, color, national origin,
 33 or gender.

34 (b) Except as provided in subsection (c), the department has
 35 exclusive jurisdiction to investigate any complaints of discrimination
 36 in the appointment of independent ~~agents~~ **insurance producers** in
 37 violation of subsection (a).

38 (c) If the commissioner of the department determines after a hearing
 39 that an insurance company has violated subsection (a), the
 40 commissioner may order one (1) of the following remedies:

41 (1) Payment of a civil penalty of not more than two thousand
 42 dollars (\$2,000) for each violation.

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(2) Suspension or revocation of the insurance company's certificate of authority if the commissioner determines that the violation was willful or wanton and that similar violations have been committed by that company with a frequency that constitutes a general business practice.

(3) Any other remedy agreed to by the department and the insurance company.

(d) Any determination made by the commissioner under this section is subject to IC 4-21.5.

(e) Findings of the department under this section may not be considered as evidence in any civil action other than an appeal as provided under IC 4-21.5.

SECTION 50. IC 27-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 2. When and as used in this chapter:

(a) The term "person" shall mean any individual, corporation, company including any farmers' mutual insurance company, association, partnership, firm, reciprocal exchange, inter-insurer, Lloyds insurers, society, fraternal benefit society, lodge, order, council, corps, and any other association or legal entity, engaged in the business of insurance, including but not in limitation of the foregoing, ~~agents,~~ **insurance producers**, brokers, solicitors, advisors, auditors, and adjusters.

(b) "Department" shall mean the department of insurance of this state created and defined as a department in the state government of the state of Indiana by IC 27-1.

(c) "Commissioner" shall mean the insurance commissioner of this state appointed pursuant to, and on and in whom the powers, duties, management, and control of the department are conferred and vested by, the provisions of IC 27-1.

SECTION 51. IC 27-4-1-4, AS AMENDED BY P.L.132-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar

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- 1 policies;
- 2 (C) making any misleading representation or any
- 3 misrepresentation as to the financial condition of any insurer,
- 4 or as to the legal reserve system upon which any life insurer
- 5 operates;
- 6 (D) using any name or title of any policy or class of policies
- 7 misrepresenting the true nature thereof; or
- 8 (E) making any misrepresentation to any policyholder insured
- 9 in any company for the purpose of inducing or tending to
- 10 induce such policyholder to lapse, forfeit, or surrender his
- 11 insurance.
- 12 (2) Making, publishing, disseminating, circulating, or placing
- 13 before the public, or causing, directly or indirectly, to be made,
- 14 published, disseminated, circulated, or placed before the public,
- 15 in a newspaper, magazine, or other publication, or in the form of
- 16 a notice, circular, pamphlet, letter, or poster, or over any radio or
- 17 television station, or in any other way, an advertisement,
- 18 announcement, or statement containing any assertion,
- 19 representation, or statement with respect to any person in the
- 20 conduct of his insurance business, which is untrue, deceptive, or
- 21 misleading.
- 22 (3) Making, publishing, disseminating, or circulating, directly or
- 23 indirectly, or aiding, abetting, or encouraging the making,
- 24 publishing, disseminating, or circulating of any oral or written
- 25 statement or any pamphlet, circular, article, or literature which is
- 26 false, or maliciously critical of or derogatory to the financial
- 27 condition of an insurer, and which is calculated to injure any
- 28 person engaged in the business of insurance.
- 29 (4) Entering into any agreement to commit, or individually or by
- 30 a concerted action committing any act of boycott, coercion, or
- 31 intimidation resulting or tending to result in unreasonable
- 32 restraint of, or a monopoly in, the business of insurance.
- 33 (5) Filing with any supervisory or other public official, or making,
- 34 publishing, disseminating, circulating, or delivering to any person,
- 35 or placing before the public, or causing directly or indirectly, to
- 36 be made, published, disseminated, circulated, delivered to any
- 37 person, or placed before the public, any false statement of
- 38 financial condition of an insurer with intent to deceive. Making
- 39 any false entry in any book, report, or statement of any insurer
- 40 with intent to deceive any agent or examiner lawfully appointed
- 41 to examine into its condition or into any of its affairs, or any
- 42 public official to which such insurer is required by law to report,

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1 or which has authority by law to examine into its condition or into
 2 any of its affairs, or, with like intent, willfully omitting to make a
 3 true entry of any material fact pertaining to the business of such
 4 insurer in any book, report, or statement of such insurer.

5 (6) Issuing or delivering or permitting agents, officers, or
 6 employees to issue or deliver, agency company stock or other
 7 capital stock, or benefit certificates or shares in any common law
 8 corporation, or securities or any special or advisory board
 9 contracts or other contracts of any kind promising returns and
 10 profits as an inducement to insurance.

11 (7) Making or permitting any of the following:

12 (A) Unfair discrimination between individuals of the same
 13 class and equal expectation of life in the rates or assessments
 14 charged for any contract of life insurance or of life annuity or
 15 in the dividends or other benefits payable thereon, or in any
 16 other of the terms and conditions of such contract; however, in
 17 determining the class, consideration may be given to the
 18 nature of the risk, plan of insurance, the actual or expected
 19 expense of conducting the business, or any other relevant
 20 factor.

21 (B) Unfair discrimination between individuals of the same
 22 class involving essentially the same hazards in the amount of
 23 premium, policy fees, assessments, or rates charged or made
 24 for any policy or contract of accident or health insurance or in
 25 the benefits payable thereunder, or in any of the terms or
 26 conditions of such contract, or in any other manner whatever;
 27 however, in determining the class, consideration may be given
 28 to the nature of the risk, the plan of insurance, the actual or
 29 expected expense of conducting the business, or any other
 30 relevant factor.

31 (C) Excessive or inadequate charges for premiums, policy
 32 fees, assessments, or rates, or making or permitting any unfair
 33 discrimination between persons of the same class involving
 34 essentially the same hazards, in the amount of premiums,
 35 policy fees, assessments, or rates charged or made for:

36 (i) policies or contracts of reinsurance or joint reinsurance,
 37 or abstract and title insurance;

38 (ii) policies or contracts of insurance against loss or damage
 39 to aircraft, or against liability arising out of the ownership,
 40 maintenance, or use of any aircraft, or of vessels or craft,
 41 their cargoes, marine builders' risks, marine protection and
 42 indemnity, or other risks commonly insured under marine,

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as distinguished from inland marine, insurance; or
 (iii) policies or contracts of any other kind or kinds of
 insurance whatsoever.

However, nothing contained in clause (C) shall be construed to
 apply to any of the kinds of insurance referred to in clauses (A)
 and (B) nor to reinsurance in relation to such kinds of insurance.
 Nothing in clause (A), (B), or (C) shall be construed as making or
 permitting any excessive, inadequate, or unfairly discriminatory
 charge or rate or any charge or rate determined by the department
 or commissioner to meet the requirements of any other insurance
 rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly
 permitting or offering to make or making any contract or policy
 of insurance of any kind or kinds whatsoever, including but not in
 limitation, life annuities, or agreement as to such contract or
 policy other than as plainly expressed in such contract or policy
 issued thereon, or paying or allowing, or giving or offering to pay,
 allow, or give, directly or indirectly, as inducement to such
 insurance, or annuity, any rebate of premiums payable on the
 contract, or any special favor or advantage in the dividends,
 savings, or other benefits thereon, or any valuable consideration
 or inducement whatever not specified in the contract or policy; or
 giving, or selling, or purchasing or offering to give, sell, or
 purchase as inducement to such insurance or annuity or in
 connection therewith, any stocks, bonds, or other securities of any
 insurance company or other corporation, association, limited
 liability company, or partnership, or any dividends, savings, or
 profits accrued thereon, or anything of value whatsoever not
 specified in the contract. Nothing in this subdivision and
 subdivision (7) shall be construed as including within the
 definition of discrimination or rebates any of the following
 practices:

(A) Paying bonuses to policyholders or otherwise abating their
 premiums in whole or in part out of surplus accumulated from
 nonparticipating insurance, so long as any such bonuses or
 abatement of premiums are fair and equitable to policyholders
 and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the
 industrial debit plan, making allowance to policyholders who
 have continuously for a specified period made premium
 payments directly to an office of the insurer in an amount
 which fairly represents the saving in collection expense.

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(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or ~~agent~~ **insurance producer** thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed ~~agent~~ **insurance producer** thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, ~~agent~~, **insurance producer**, or solicitor duly licensed under the laws of this state, but such broker, ~~agent~~, **insurance producer**, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent~~ **producer** or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents~~ **insurance producers** or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

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(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent~~, **insurance producer**, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made

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under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

SECTION 52. IC 27-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 1. It is hereby declared unlawful for any two (2) or more insurance companies writing the same class, or classes, of risks and doing business in this state, directly or indirectly, to enter into any arrangement, contract, agreement, understanding, combination or association to require, coerce or induce any ~~agent~~ **insurance producer** or representative of any two (2) or more of such insurance companies within the state of Indiana to refrain from representing other such insurance companies, or to afford any advantage to any such ~~agent~~ **insurance producer** to refrain from representing other such insurance companies or to impose upon such ~~agent~~ **insurance producer** any disadvantage by reason of his acting as representative of other such

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1 insurance companies.

2 SECTION 53. IC 27-4-3-2 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

4 Sec. 2. (a) It ~~shall be~~ **is** unlawful for any insurance ~~agent~~ **producer**
5 representing or acting for two (2) or more insurance companies writing
6 the same class or classes, of risks to enter, either directly or indirectly,
7 into any agreement, arrangement, contract or understanding with one
8 (1) or more of such companies that ~~he~~ **the insurance producer** will
9 refrain from representing any other like company or companies, and it
10 ~~shall be~~ **is** unlawful for any such insurance company, not having a
11 contract requiring an ~~agent~~ **insurance producer** to represent ~~it~~ **the**
12 **insurance company** alone, in any manner to require, coerce or induce
13 any ~~agent~~ **insurance producer** to refrain from representing any other
14 like company or companies.

15 (b) ~~Provided, however, That this shall not be construed to This~~
16 **section does not** prevent any insurance company or ~~agent~~ **insurance**
17 **producer** from at any time entering into a bona fide contract whereby
18 ~~such agent an insurance producer~~ agrees that ~~he~~ **the insurance**
19 **producer** will thereafter represent a single company exclusively.

20 SECTION 54. IC 27-4-3-3 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

22 Sec. 3. For violation of any provision of this chapter, the license of the
23 offending company or ~~agent~~ **insurance producer** to transact the
24 business of insurance within the state of Indiana shall be suspended for
25 a period of three (3) years. Whenever information of any such violation
26 shall come to the knowledge of the commissioner of insurance, ~~he~~ **the**
27 **commissioner** shall issue an order fixing a day certain, not more than
28 thirty (30) nor less than twenty (20) days from the making thereof,
29 upon which the offender shall appear and show cause why such penalty
30 should not be enforced, such order specifying with reasonable certainty
31 the violation charged, and if, after hearing, the commissioner shall
32 determine that the company or ~~agent~~ **insurance producer** is guilty of
33 such violation, ~~he~~ **the commissioner** shall forthwith suspend the
34 license of the offender for a period of three (3) years. Such hearing
35 shall be public, and at any such hearing any person or corporation
36 having lodged information of such violation with the commissioner
37 shall be entitled to be present and submit evidence. Within thirty (30)
38 days after the suspension of any such license, the ~~agent~~ **insurance**
39 **producer** or company whose license has been suspended may appeal
40 from the ruling of the commissioner of insurance to the circuit or
41 superior court of the county in which such ~~agent~~ **insurance producer**
42 resides or in which such company has its principal place of business,



and if such company be a foreign insurance company then such appeal may be taken by such company to the circuit or superior court of Marion County.

SECTION 55. IC 27-5-3-3, AS AMENDED BY P.L.132-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. (a) With respect to writing, making, or taking the kinds of insurance specifically excepted in IC 27-5-2-1(1)(B) and with respect to writing, making, or taking liability insurance, worker's compensation, fidelity, and surety insurance such farmers' mutual insurance company shall be subject to the following statutes, anything in IC 27-1 or IC 27-5-1 to the contrary notwithstanding:

(1) IC 27-1-3, IC 27-9, IC 27-1-5-3, IC 27-1-6-15, IC 27-1-7-14, IC 27-1-7-15, IC 27-1-7-16, IC 27-6-1.1-2, IC 27-1-7-21, IC 27-1-7-22, IC 27-1-7-23, IC 27-1-9, IC 27-1-13-3, IC 27-1-13-4, IC 27-1-13-6, IC 27-1-13-7, IC 27-1-13-8, IC 27-1-13-9, IC 27-1-20-1, IC 27-1-20-4, IC 27-1-20-6, IC 27-1-20-9, IC 27-1-20-10, IC 27-1-20-11, IC 27-1-20-14, IC 27-1-20-19, IC 27-1-20-20, IC 27-1-20-21, IC 27-1-20-23, ~~IC 27-1-20-24~~, and IC 27-1-20-30.

(2) All of IC 27-1-22.

(3) IC 27-1-13-7.

(4) All of IC 27-7-2.

(b) An **agent insurance producer** representing a farmers' mutual insurance company with respect to insurance authorized to be written by this chapter and not authorized before March 13, 1953, to be written by a farmers' mutual insurance company shall comply with IC 27-1-15.6.

SECTION 56. IC 27-5-4-2, AS AMENDED BY P.L.132-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 2. Any such farmers' mutual insurance company may elect to become subject to the provisions of IC 27-1 as provided by IC 27-1-11-1 and thereafter may avail itself of all rights, privileges, and franchises provided by IC 27-1 in accordance with IC 27-1. Nothing contained in IC 27-1 shall affect or invalidate any policies issued or bound by such company and in full force and effect at the time said election becomes effective, but any such policy or contract of insurance and the rights and obligations thereunder may continue in full force and effect until expiration or termination; provided, that not later than five (5) years following the effective date of said election, all such policies or contracts of insurance shall be subject to the provisions of IC 27-1. Any **agent**

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1 **insurance producer** or representative of such company who is exempt
 2 from the provisions of IC 27-1-15.6 at the time said election becomes
 3 effective may continue to represent such company only within the
 4 scope of such existing representation without compliance with the
 5 provisions of IC 27-1-15.6 for a period not to exceed one (1) year
 6 following the effective date of said election, but thereafter such
 7 representation shall be subject to compliance with IC 27-1-15.6. Such
 8 election provided for in this section shall become effective upon the
 9 date of issuance of the new certificate of authority pursuant to
 10 IC 27-1-11-7.

11 SECTION 57. IC 27-6-8-9 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

13 Sec. 9. (a) The commissioner shall:

14 (i) Notify the association of the existence of an insolvent insurer
 15 not later than three (3) working days after he receives an order of
 16 liquidation.

17 (ii) Upon request of the board of directors, provide the association
 18 with a statement of the net direct written premiums of each
 19 member insurer.

20 (b) The commissioner may:

21 (i) Require that the association notify the insureds of the insolvent
 22 insurer and any other interested parties of the order of liquidation
 23 and of their rights under this chapter. This notification shall be by
 24 mail at their last known address, where available, but if sufficient
 25 information for notification by mail is not available, notice by
 26 publication in a newspaper of general circulation in all counties
 27 in which the insolvent insurer transacted insurance business shall
 28 be sufficient.

29 (ii) Require each **agent insurance producer** of the insolvent
 30 insurer to give prompt written notice by first class mail of such
 31 insolvency and the rights of the insured under this chapter to each
 32 insured of the insolvent insurer for whom ~~he~~ **the insurance**
 33 **producer** is **agent insurance producer** of record, at such
 34 insured's last known address.

35 (iii) Suspend or revoke, after notice and hearing, the certificate of
 36 authority to transact insurance in this state of any member insurer
 37 which fails to pay an assessment when due or fails to comply with
 38 the plan of operation. As an alternative, the commissioner may
 39 levy a fine on any member insurer which fails to pay an
 40 assessment when due. The fine shall not exceed five percent (5%)
 41 of the unpaid assessment per month, except that no fine shall be
 42 less than one hundred dollars (\$100) per month.

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(iv) Revoke the designation of any servicing facility if he finds claims are being handled unsatisfactorily.

(v) Any final action or order of the commissioner under this chapter shall be subject to judicial review in a court of competent jurisdiction.

SECTION 58. IC 27-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 10. (Effect of Paid Claims) (a) Any person recovering under this chapter shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association. Every insured or claimant seeking the protection of this chapter shall cooperate with the association to the same extent as the person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments previously made and no assessment shall be thereafter made for the purpose of reimbursing the association.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state functioning pursuant to IC 27-6-8-8(d). The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

(c) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

(d) The association shall have a right to recover from the ~~agent~~ **insurance producer** of record any part of the paid claim for unearned premium that represents unearned commission to the ~~agent~~ **insurance producer**.

SECTION 59. IC 27-6-8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

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1 Sec. 19. No person, including an insurer, ~~agent,~~ **insurance producer,**
 2 or affiliate of an insurer, shall make, publish, disseminate, circulate, or
 3 place before the public, or cause, directly or indirectly, to be made,
 4 published, disseminated, circulated or placed before the public, in any
 5 newspaper, magazine or other publication, or in the form of a notice,
 6 circular, pamphlet, letter or poster, or over any radio station or
 7 television station, or in any other way, any advertisement,
 8 announcement or statement which uses the existence of the insurance
 9 guaranty association of this state for the purpose of sales, solicitation,
 10 or inducement to purchase any form of insurance covered by the
 11 Indiana insurance guaranty association law. Provided, however, this
 12 section does not apply to Indiana insurance guaranty association or to
 13 any other entity which does not sell or solicit insurance.

14 SECTION 60. IC 27-6-9-5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. As used in this
 16 chapter, "licensed producer" means ~~an agent, broker, or reinsurance~~
 17 ~~intermediary licensed pursuant to the applicable provision of the~~
 18 ~~insurance law:~~ **a person that is licensed under IC 27-1-15.6.**

19 SECTION 61. IC 27-6-9-7 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. As used in this
 21 chapter, "reinsurance intermediary-broker" ~~or, "RB"~~ means any person,
 22 other than an officer or employee of the ceding insurer, firm,
 23 association, or corporation, who solicits, negotiates, or places
 24 reinsurance cessions or retrocessions on behalf of a ceding insurer
 25 ~~without the authority or power to bind reinsurance~~ **but does not act as**
 26 **a reinsurance intermediary-manager** on behalf of that insurer.

27 SECTION 62. IC 27-6-9-8 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) As used in this
 29 chapter, "reinsurance intermediary-manager" ~~(or, RM)~~ means any
 30 person, firm, association or corporation, **regardless of the title held,**
 31 that:

- 32 (1) has authority to bind or manages all or part of the assumed
- 33 reinsurance business of a reinsurer (including the management of
- 34 a separate division, department, or underwriting office); and
- 35 (2) acts as an agent for that reinsurer.

36 ~~whether known as a RM, manager, or other similar term.~~

37 (b) Notwithstanding subsection (a), the following persons may not
 38 be considered a ~~RM,~~ **reinsurance intermediary-manager,** with
 39 respect to a reinsurer, for the purposes of this chapter:

- 40 (1) An employee of the reinsurer.
- 41 (2) A United States manager of the United States branch of an
- 42 alien reinsurer.

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- 1 (3) An underwriting manager ~~which, that~~, pursuant to contract:
 2 (A) manages all or part of the reinsurance operations of the
 3 reinsurer;
 4 (B) is under common control with the reinsurer, subject to
 5 IC 27-1-23; and
 6 (C) ~~whose compensation~~ is not **compensated** based on the
 7 volume of premiums written.
 8 (4) The manager of a group, association, pool, or organization of
 9 insurers which engage in joint underwriting or joint reinsurance
 10 ~~and who are if the group, association, pool, or organization~~
 11 **itself is** subject to examination by the insurance commissioner of
 12 the state in which the manager's principal business office is
 13 located.

14 SECTION 63. IC 27-6-9-12 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. No person, firm,
 16 association, or corporation may act as a ~~RB~~ **reinsurance**
 17 **intermediary-broker** in Indiana if the ~~RB~~ **person, firm, association,**
 18 **or corporation** maintains an office either directly, or as a member or
 19 employee of a firm or association, or as an officer, director, or
 20 employee of a corporation:

- 21 (1) in Indiana, unless the ~~RB~~ **person, firm, association, or**
 22 **corporation** is a:
 23 (A) licensed producer in Indiana; or
 24 (B) **reinsurance intermediary; or**
 25 (2) in another state, unless the ~~RB~~ (A) **person, firm, association,**
 26 **or corporation** is a:
 27 (A) licensed producer; or
 28 (B) **reinsurance intermediary;**
 29 in Indiana or another state having a law substantially similar to
 30 this chapter. ~~or~~
 31 (B) ~~is licensed in Indiana as a nonresident reinsurance~~
 32 **intermediary.**

33 SECTION 64. IC 27-6-9-13 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. No person, firm,
 35 association, or corporation may act as a ~~RM~~ **reinsurance**
 36 **intermediary-manager:**

- 37 (1) for a reinsurer domiciled in this state unless the ~~RM~~ **person,**
 38 **firm, association, or corporation** is a licensed producer ~~or a~~
 39 **reinsurance intermediary** in this state; ~~or~~
 40 (2) in this state, if the ~~RM~~ **person, firm, association, or**
 41 **corporation** maintains an office either directly, or as a member
 42 or employee of a firm, limited liability company, or association,



or as an officer, director, or employee of a corporation in this state, unless the ~~RM~~ **person, firm, association, or corporation** is a licensed producer **or a reinsurance intermediary** in this state.

~~(3) in another state for a nondomestic insurer, unless the RM is:~~
 (A) a licensed producer in Indiana or another state having a law substantially similar to this chapter; or
 (B) the person is licensed in this state as a nonresident reinsurance intermediary.

SECTION 65. IC 27-6-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. The commissioner may require a ~~RM~~ **resident reinsurance intermediary-manager** subject to section 13 of this chapter to:

- (1) file a bond from an insurer in an amount acceptable to the commissioner for the protection of the reinsurer; and
- (2) maintain an errors and omissions policy in an amount acceptable to the commissioner.

SECTION 66. IC 27-6-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 15. (a) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation ~~who that~~ has complied with the requirements of this chapter. ~~Any~~ **A** license issued to a firm or association under this section authorizes all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and all such persons must be named in the application and any supplements thereto. Any license issued to a corporation under this section authorizes all of the officers of the corporation, and any designated employees and directors of the corporation, to act as reinsurance intermediaries on behalf of the corporation, and all such persons must be named in the application and any supplements thereto.

(b) ~~If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, must:~~

- (1) designate the commissioner as agent for service of process in the manner, and with the same legal effect, provided for by this chapter for designation of service of process upon unauthorized insurers; and
- (2) furnish the commissioner with the name and address of a resident of Indiana upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served.



(c) A licensee who receives a license under subsection (b) shall promptly notify the commissioner in writing of every change in its designated agent for service of process; and a change in the licensee's designated agent does not become effective until acknowledged by the commissioner.

(b) The commissioner shall issue a nonresident reinsurance intermediary license to a nonresident applicant if:

(1) the applicant is currently:

(A) licensed as a resident reinsurance intermediary or insurance producer; and

(B) in good standing;

in the applicant's home state;

(2) the applicant submits the proper request for licensure and pays fees as may be established by rule;

(3) the applicant submits or transmits to the commissioner:

(A) the application for licensure that the applicant submitted in the applicant's home state; or

(B) a completed application that the commissioner considers appropriate; and

(4) the applicant's home state awards nonresident reinsurance intermediary licenses to residents of Indiana on the same basis as that set forth in this subsection.

SECTION 67. IC 27-6-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 16. (a) The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment:

(1) the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant, is not trustworthy;

(2) any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary; or

(3) any of the foregoing has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance of such license.

(b) Upon written request therefor, the commissioner shall furnish a summary of the basis for refusal to issue a license. A summary furnished under this subsection is declared confidential for the purposes of ~~IC 5-14-3-4(1)~~ **IC 5-14-3-4(a)(1)** and is not subject to inspection and copying as a public record.

SECTION 68. IC 27-6-9-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. Transactions between a ~~RB~~ **reinsurance intermediary-broker** and the insurer it

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represents in the capacity of **RB reinsurance intermediary-broker** shall only be entered into pursuant to a written authorization, specifying the responsibilities of each party. The authorization shall, at a minimum, contain provisions stating the following:

(1) The insurer may terminate the **RB's reinsurance intermediary-broker's** authority at any time.

(2) The **RB reinsurance intermediary-broker** will:

(A) render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by or owing to the **RB; reinsurance intermediary-broker;** and

(B) remit all funds due to the insurer within thirty (30) days of receipt.

(3) All funds collected for the insurer's account will be held by the **RB reinsurance intermediary-broker** in a fiduciary capacity in a bank which is a qualified United States financial institution.

(4) The **RB reinsurance intermediary-broker** will comply with section 19 of this chapter.

(5) The **RB reinsurance intermediary-broker** will comply with the written standards established by the insurer for the cession or retrocession of all risks.

(6) The **RB reinsurance intermediary-broker** will disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

SECTION 69. IC 27-6-9-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 19. (a) For at least ten (10) years after the expiration of each contract of reinsurance transacted by ~~the RB;~~ **a reinsurance intermediary-broker,** the **RB reinsurance intermediary-broker** will keep a complete record for each transaction showing the following:

(1) The type of contract, limits, underwriting restrictions, classes or risks and territory.

(2) Period of coverage, including effective and expiration dates, cancellation provisions, and notice required of cancellation.

(3) Reporting and settlement requirements of balances.

(4) Rate used to compute the reinsurance premium.

(5) Names and addresses of assuming reinsurers.

(6) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the **RB; reinsurance intermediary-broker.**

(7) Related correspondence and memoranda.

(8) Proof of placement.



(9) Details regarding retrocessions handled by the ~~RB~~, **reinsurance intermediary-broker**, including the identity of retrocessionaires and percentage of each contract assumed or ceded.

(10) Financial records, including but not limited to, premium and loss accounts.

(11) When the ~~RB~~ **reinsurance intermediary-broker** procures a reinsurance contract on behalf of a licensed ceding insurer:

(A) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or

(B) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.

(b) The insurer shall have access to and the right to copy and audit all accounts and records maintained by the ~~RB~~ **reinsurance intermediary-broker** related to its business in a form usable by the insurer.

SECTION 70. IC 27-6-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 20. (a) An insurer may not engage the services of any person, firm, association, or corporation to act as a ~~RB~~ **reinsurance intermediary-broker** on its behalf unless such person is licensed as required by section 12 of this chapter.

(b) An insurer may not employ an individual who is employed by a ~~RB~~ **reinsurance intermediary-broker** with which it transacts business unless the ~~RB~~ **reinsurance intermediary-broker** is under common control with the insurer and subject to IC 27-1-23.

(c) The insurer shall annually obtain a copy of statements of the financial condition of each ~~RB~~ **reinsurance intermediary-broker** with which it transacts business.

SECTION 71. IC 27-6-9-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 21. Transactions between a ~~RM~~ **reinsurance intermediary-manager** and the reinsurer it represents in the capacity of ~~RM~~ **reinsurance intermediary-manager** may only be entered into pursuant to a written contract, specifying the responsibilities of each party, which must be approved by the reinsurer's board of directors. At least thirty (30) days before a reinsurer assumes or cedes business through a ~~RM~~, **reinsurance intermediary-manager** a true copy of the approved contract must be filed with the commissioner for approval. The contract must, at a minimum, contain provisions that state the following:

(1) The reinsurer may terminate the contract for cause upon written notice to the ~~RM~~, **reinsurance intermediary-manager**

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and may suspend the authority of the ~~RM~~ **reinsurance intermediary-manager** to assume or cede business during the pendency of any dispute regarding the cause for termination.

(2) The ~~RM~~ **reinsurance intermediary-manager** will:

(A) render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by or owing to the ~~RM~~; **reinsurance intermediary-manager**; and

(B) remit all funds due under the contract to the reinsurer on not less than a monthly basis.

(3) All funds collected for the reinsurer's account will be held by the ~~RM~~ **reinsurance intermediary-manager** in a fiduciary capacity in a bank which is a qualified United States financial institution. The ~~RM~~ **reinsurance intermediary-manager** may retain no more than three (3) months estimated claims payments and allocated loss adjustment expenses. The ~~RM~~ **reinsurance intermediary-manager** shall maintain a separate bank account for each reinsurer that it represents.

(4) For at least ten (10) years after expiration of each contract of reinsurance transacted by the ~~RM~~; **reinsurance intermediary-manager**, the ~~RM~~ **reinsurance intermediary-manager** will keep a complete record for each ~~transactions~~ **transaction** showing the following:

(A) The type of contract, limits, underwriting restrictions, classes or risks, and territory.

(B) Period of coverage, including effective and expiration dates, cancellation provisions and notice required of cancellation, and disposition of outstanding reserves on covered risks.

(C) Reporting and settlement requirements of balances.

(D) Rate used to compute the reinsurance premium.

(E) Names and addresses of reinsurers.

(F) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the ~~RM~~; **reinsurance intermediary-manager**.

(G) Related correspondence and memoranda.

(H) Proof of placement.

(I) Details regarding retrocessions handled by the ~~RM~~; **reinsurance intermediary-manager**, as permitted by section 23(d) of this chapter, including the identity of retrocessionaires and percentage of each contract assumed or ceded.

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(J) Financial records, including premium and loss accounts.

(K) When the **RM reinsurance intermediary-manager** places a reinsurance contract on behalf of a ceding insurer:

- (i) directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; or
- (ii) if placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative.

(5) The reinsurer will have access and the right to copy all accounts and records maintained by the **RM reinsurance intermediary-manager** related to its business in a form usable by the reinsurer.

(6) The contract cannot be assigned in whole or in part by the **RM reinsurance intermediary-manager**.

(7) The **RM reinsurance intermediary-manager** will comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks.

(8) The rates, terms, and purposes of commissions, charges, and other fees which the **RM reinsurance intermediary-manager** may levy against the reinsurer.

(9) If the contract permits the **RM reinsurance intermediary-manager** to settle claims on behalf of the reinsurer, the following apply:

(A) All claims will be reported to the reinsurer in a timely manner.

(B) A copy of the claim file will be sent to the reinsurer at its request or as soon as it becomes known that the claim:

- (i) has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer;
- (ii) involves a coverage dispute;
- (iii) may exceed the **RM's reinsurance intermediary-manager's** claims settlement authority;
- (iv) is open for more than six (6) months; or
- (v) is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer.

(C) All claim files will be the joint property of the reinsurer and **RM: the reinsurance intermediary-manager**. However, upon an order of liquidation of the reinsurer, the files shall become the sole property of the reinsurer or its estate, and the **RM reinsurance intermediary-manager** shall have

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1 reasonable access to and the right to copy the files on a timely
2 basis.

3 (D) Any settlement authority granted to the ~~RM~~ **reinsurance**
4 **intermediary-manager** may be terminated for cause upon the
5 reinsurer's written notice to the ~~RM~~ **reinsurance**
6 **intermediary-manager** or upon the termination of the
7 contract. The reinsurer may suspend the settlement authority
8 during the pendency of the dispute regarding the cause of
9 termination.

10 (10) If the contract provides for a sharing of interim profits by the
11 ~~RM~~, **reinsurance intermediary-manager**, that those interim
12 profits will not be paid until one (1) year after the end of each
13 underwriting period for property business and five (5) years after
14 the end of each underwriting period for casualty business (or a
15 later period set by the commissioner for specified lines of
16 insurance) and not until the adequacy of reserves on remaining
17 claims has been verified under section 23(c) of this chapter.

18 (11) The ~~RM~~ **reinsurance intermediary-manager** will annually
19 provide the reinsurer with a statement of its financial condition
20 prepared by an independent certified accountant.

21 (12) The reinsurer shall periodically (at least semiannually)
22 conduct an on-site review of the underwriting and claims
23 processing operations of the ~~RM~~, **reinsurance**
24 **intermediary-manager**.

25 (13) The ~~RM~~ **reinsurance intermediary-manager** will disclose
26 to the reinsurer any relationship it has with any insurer prior to
27 ceding or assuming any business with that insurer pursuant to the
28 contract.

29 (14) The acts of the ~~RM~~ **reinsurance intermediary-manager**
30 shall be considered to be the acts of the reinsurer on whose behalf
31 the ~~RM~~ **reinsurance intermediary-manager** is acting.

32 SECTION 72. IC 27-6-9-22 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. (a) A ~~RM~~
34 **reinsurance intermediary-manager** may not bind retrocessions on
35 behalf of the reinsurer, except that the ~~RM~~ **reinsurance**
36 **intermediary-manager** may bind facultative retrocessions pursuant to
37 obligatory facultative agreements if the contract with the reinsurer
38 contains reinsurance underwriting guidelines for such retrocessions.
39 Guidelines referred to in this subsection must include a list of
40 reinsurers with which the automatic agreements are in effect, and, for
41 each such reinsurer, the coverages and amounts or percentages that
42 may be reinsured, and commission schedules.

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1 (b) A ~~RM~~ **reinsurance intermediary-manager** may not commit the
2 reinsurer to participate in reinsurance syndicates.

3 (c) A ~~RM~~ **reinsurance intermediary-manager** may not appoint
4 any producer without assuring that the producer is lawfully licensed to
5 transact the type of reinsurance for which the producer is appointed.

6 (d) A ~~RM~~ **reinsurance intermediary-manager** may not, without
7 prior approval of the reinsurer, pay or commit the reinsurer to pay a
8 claim, net of retrocessions, that exceeds the lesser of:

9 (1) an amount specified by the reinsurer; or

10 (2) one percent (1%) of the reinsurer's policyholder's surplus as of
11 December 31 of the last complete calendar year before the
12 payment or commitment.

13 (e) A ~~RM~~ **reinsurance intermediary-manager** may not collect any
14 payment from a retrocessionaire or commit the reinsurer to any claim
15 settlement with a retrocessionaire without prior approval of the
16 reinsurer. If prior approval is given, a report must be promptly
17 forwarded to the reinsurer.

18 (f) A ~~RM~~ **reinsurance intermediary-manager** may not jointly
19 employ an individual who is employed by the reinsurer.

20 (g) A ~~RM~~ **reinsurance intermediary-manager** may not appoint a
21 ~~sub-RM: sub-reinsurance intermediary-manager~~.

22 SECTION 73. IC 27-6-9-23 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. (a) A reinsurer may
24 not engage the services of any person, firm, association, or corporation
25 to act as a ~~RM~~ **reinsurance intermediary-manager** on its behalf
26 unless the person engaged is licensed as required by section 13 of this
27 chapter.

28 (b) A reinsurer shall annually obtain a copy of statements of the
29 financial condition of each ~~RM~~ **which reinsurance**
30 **intermediary-manager that** the reinsurer has engaged, prepared by an
31 independent certified accountant in a form acceptable to the
32 commissioner.

33 (c) If a ~~RM~~ **reinsurance intermediary-manager** establishes loss
34 reserves, the reinsurer shall annually obtain the opinion of an actuary
35 attesting to the adequacy of loss reserves established for losses incurred
36 and outstanding on business produced by the ~~RM: reinsurance~~
37 **intermediary-manager**. This opinion shall be in addition to any other
38 required loss reserve certification.

39 (d) Binding authority for all retrocessional contracts or participation
40 in reinsurance syndicates shall rest with an officer of the reinsurer, who
41 must not be affiliated with the ~~RM: reinsurance~~
42 **intermediary-manager**.



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(e) Within thirty (30) days of termination of a contract with a ~~RM~~, **reinsurance intermediary-manager**, the reinsurer shall provide written notification of the termination to the commissioner.

(f) A reinsurer may not appoint to its board of directors any officer, director, employee, controlling shareholder, or subproducer of its ~~RM~~. **reinsurance intermediary-manager**. This subsection does not apply to relationships governed by IC 27-1-23.

SECTION 74. IC 27-6-9-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 24. (a) A reinsurance intermediary is subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the commissioner.

(b) A ~~RM~~ **reinsurance intermediary-manager** may be examined as if it were the reinsurer.

SECTION 75. IC 27-6-9-25.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25.1. (a) **The commissioner shall waive nonresident reinsurance intermediary license requirements, except the requirements specified in section 15 of this chapter, if:**

(1) **a nonresident reinsurance intermediary applicant holds a valid license in the nonresident reinsurance intermediary applicant's home state; and**

(2) **the nonresident reinsurance intermediary applicant's home state issues nonresident reinsurance intermediary licenses to residents of Indiana on the same basis.**

(b) **Indiana's reinsurance intermediary continuing education requirements are satisfied with respect to a nonresident reinsurance intermediary if:**

(1) **the nonresident reinsurance intermediary satisfies applicable continuing education requirements of the nonresident reinsurance intermediary's home state for a licensed insurance producer or reinsurance intermediary; and**

(2) **the nonresident reinsurance intermediary's home state recognizes the completion of Indiana's continuing education requirements for licensed Indiana insurance producers or reinsurance intermediaries on the same basis.**

SECTION 76. IC 27-6-9-25.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 25.2. (a) **A reinsurance intermediary that accepts licensure in Indiana is considered to:**

(1) **consent to the jurisdiction of the commissioner and of**

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1 **Indiana courts with respect to activities conducted under the**
 2 **license; and**

3 **(2) designate the commissioner as the reinsurance**
 4 **intermediary's agent for service of process.**

5 **(b) A licensed reinsurance intermediary shall provide to the**
 6 **commissioner the name and address of a designated contact**
 7 **resident of Indiana to whom:**

8 **(1) a notice or an order of the commissioner; or**

9 **(2) process affecting the reinsurance intermediary;**
 10 **may be forwarded.**

11 **(c) A licensed reinsurance intermediary shall promptly notify**
 12 **the commissioner in writing of a change in the reinsurance**
 13 **intermediary's designated contact resident of Indiana specified**
 14 **under subsection (b). A change in the reinsurance intermediary's**
 15 **designated contact resident of Indiana is not effective until the**
 16 **change is acknowledged by the commissioner.**

17 SECTION 77. IC 27-7-6-5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 19 Sec. 5. No notice of cancellation of a policy to which section 4 of this
 20 chapter applies shall be effective unless mailed or delivered by the
 21 insurer to the named insured at least twenty (20) days prior to the
 22 effective date of cancellation; provided, however, that where
 23 cancellation is for nonpayment of premium at least ten (10) days notice
 24 of cancellation accompanied by the reason therefor shall be given. In
 25 the event such policy was procured by an ~~agent~~ **insurance producer**
 26 duly licensed by the state of Indiana, notice of intent to cancel shall be
 27 mailed or delivered to ~~such agent~~ **the insurance producer** at least ten
 28 (10) days prior to such mailing or delivery to the named insured unless
 29 such notice of intent is or has been waived in writing by ~~such agent~~ **the**
 30 **insurance producer**. Unless the reason accompanies or is included in
 31 the notice of cancellation, the notice of cancellation shall state or be
 32 accompanied by a statement that upon written request of the named
 33 insured, mailed or delivered to the insurer not less than fifteen (15)
 34 days prior to the effective date of cancellation, the insurer will specify
 35 the reason for such cancellation. This section shall not apply to
 36 nonrenewal.

37 SECTION 78. IC 27-7-6-6 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 39 Sec. 6. No insurer shall fail to renew a policy unless it shall mail or
 40 deliver to the named insured, at the address shown in the policy, at
 41 least twenty (20) days' advance notice of its intention not to renew. In
 42 the event such policy was procured by an ~~agent~~ **insurance producer**

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1 duly licensed by the state of Indiana notice of intent not to renew shall
 2 be mailed or delivered to ~~such agent~~ **the insurance producer** at least
 3 ten (10) days prior to such mailing or delivery to the named insured
 4 unless such notice of intent is or has been waived in writing by ~~such~~
 5 ~~agent~~ **the insurance producer**.

6 This section shall not apply: (a) if the insurer has manifested its
 7 willingness to renew; nor (b) in case of nonpayment of premium:
 8 Provided, That, notwithstanding the failure of an insurer to comply
 9 with this section, the policy shall terminate on the effective date of any
 10 other insurance policy with respect to any automobile designated in
 11 both policies.

12 Renewal of a policy shall not constitute a waiver or estoppel with
 13 respect to grounds for cancellation which existed before the effective
 14 date of such renewal.

15 SECTION 79. IC 27-7-6-10 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 17 Sec. 10. There shall be no liability on the part of and no cause of action
 18 of any nature shall arise against the commissioner of insurance or
 19 against any insurer, its authorized representative, its ~~agents~~, **insurance**
 20 **producers**, its employees, or any firm, person, limited liability
 21 company, or corporation furnishing to the insurer information as to
 22 reasons for cancellation, for any statement made by any of them in any
 23 written notice of cancellation, or in any other communication, oral or
 24 written specifying the reasons for cancellation, or the providing of
 25 information pertaining thereto, or for statements made or evidence
 26 submitted at any hearings conducted in connection therewith.

27 SECTION 80. IC 27-7-9-9, AS AMENDED BY P.L.182-2001,
 28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 9. (a) An insurer making
 30 the type of insurance described in Class 3(a) of IC 27-1-5-1 shall enter
 31 into a reinsurance agreement with the commissioner. The reinsurance
 32 agreement must include the following terms:

33 (1) The insurer agrees to cede to the commissioner one hundred
 34 percent (100%) of any mine subsidence coverage issued under
 35 this chapter, subject to a maximum limit of two hundred thousand
 36 dollars (\$200,000) per structure insured.

37 (2) The insurer shall collect the premiums for mine subsidence
 38 insurance, may retain a ceding commission in an amount set by
 39 the commissioner, and shall remit the remainder of the premiums
 40 to the commissioner for deposit in the mine subsidence insurance
 41 fund.

42 (3) The insurer, in consideration of the ceding commission, shall:

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(A) undertake the adjustment of losses under the mine subsidence coverage issued under this chapter by the insurer, with technical assistance provided under section 9.5 of this chapter; and

(B) pay the taxes and absorb all other expenses necessarily incurred by the insurer in the sale of policies and the administration of the mine subsidence insurance program under this chapter.

(4) The commissioner shall reimburse the insurer from the mine subsidence insurance fund for all amounts paid to policyholders for mine subsidence insurance claims.

(5) The insurer is not required to pay a claim for any mine subsidence loss insured under this chapter if the amount available in the mine subsidence insurance fund is insufficient to reimburse the insurer for the claim.

(b) The determination of the commissioner as to the amount of the ceding commission that an insurer may retain under subsection (a)(2) must be based on a consideration of the insurer's reasonable administrative costs (including **agents' insurance producers'** commissions).

SECTION 81. IC 27-7-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 15. (a) A risk retention group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within Indiana, and shall report to the commissioner of this state the net premiums written for risks resident or located within Indiana. A risk retention group that is chartered and licensed in a state other than Indiana is subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(b) A licensed **agent insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall report to the commissioner the premiums for direct business for risks resident or located within Indiana that the **agent insurance producer** has placed with or on behalf of a risk retention group that is not chartered in Indiana.

(c) A licensed **agent insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall keep a complete and separate record of all policies procured from each such risk retention

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group. The record kept under this subsection must be open to examination by the commissioner and must, for each policy and each kind of insurance provided, include the following information:

- (1) The limit of liability.
- (2) The time period covered.
- (3) The effective date.
- (4) The name of the risk retention group that issued the policy.
- (5) The gross premium charged.
- (6) The amount of return premiums, if any.

SECTION 82. IC 27-7-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 27. (a) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed **agent insurance producer** or broker acting under the surplus lines laws and regulations of that state.

(b) A purchasing group that obtains liability insurance from an insurer that is not admitted in Indiana or from a risk retention group shall inform each of the members of the group who have a risk resident or located in Indiana that the risk is not protected by an insurance insolvency guaranty fund in Indiana and that the risk retention group or insurer may not be subject to all insurance laws and rules of Indiana.

(c) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole. However, coverage may provide for a deductible or self-insured retention applicable to individual members of the purchasing group.

(d) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits that are applicable to all purchases of group insurance.

SECTION 83. IC 27-7-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 28. Premium taxes and taxes on premiums paid for coverage of risks resident or located in Indiana by a purchasing group or any member of a purchasing group shall be:

- (1) imposed at the same rate and subject to the same interest, fines, and penalties that apply to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and
- (2) paid first by the insurance source, and if not by the insurance source, then by the **agent insurance producer** or broker for the purchasing group, and if not by the **agent insurance producer** or

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broker, then by the purchasing group, and if not by the purchasing group, then by each of its members.

SECTION 84. IC 27-7-10-30, AS AMENDED BY P.L.132-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 30. No individual, firm, association, limited liability company, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance in Indiana from a risk retention group unless the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

SECTION 85. IC 27-7-10-31, AS AMENDED BY P.L.132-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 31. (a) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance in Indiana for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

(b) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in Indiana for any member of a purchasing group under a purchasing group's policy unless the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

(c) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in Indiana on behalf of a purchasing group located in Indiana unless the individual, firm, association, or corporation is licensed as a surplus lines **agent producer** under IC 27-1-15.8.

SECTION 86. IC 27-7-10-32, AS AMENDED BY P.L.132-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 32. (a) For purposes of acting as an **agent insurance producer** for a risk retention group or purchasing group under section 30 or 31 of this chapter, the requirement of residence in Indiana does not apply.

(b) Every individual, firm, association, or corporation licensed under IC 27-1-15.6, in regard to business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by section 18 of this chapter in the case of a risk retention group and section 27(c)

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of this chapter in the case of a purchasing group.

SECTION 87. IC 27-7-12-3, AS ADDED BY P.L.203-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the effective date of the cancellation; and
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the cancellation.

(b) An insurer shall provide written notice of cancellation to the named insured at least:

- (1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;
- (2) twenty (20) days before canceling a policy, if the cancellation occurs more than sixty (60) days after the date of issuance of the policy; and
- (3) ten (10) days before canceling a policy, if the cancellation occurs not more than sixty (60) days after the date of issuance of the policy.

(c) If the policy was procured by an independent **agent insurance producer** licensed in Indiana, the insurer shall deliver or mail notice of cancellation to the **agent insurance producer** not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the **agent insurance producer** is waived in writing by the **agent insurance producer**.

SECTION 88. IC 27-7-12-4, AS ADDED BY P.L.203-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 4. (a) Notice of nonrenewal by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the insurer's intention not to renew the policy upon expiration of the current policy period;
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the nonrenewal; and
- (5) be provided to the named insured at least twenty (20) days before the expiration of the current policy period.

(b) If the policy was procured by an independent **agent insurance**

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1 **producer** licensed in Indiana, the insurer shall deliver or mail notice
 2 of nonrenewal to the ~~agent~~ **insurance producer** not less than ten (10)
 3 days before the insurer delivers or mails the notice to the named
 4 insured, unless the obligation to notify the ~~agent~~ **insurance producer**
 5 is waived in writing by the ~~agent~~ **insurance producer**.

6 (c) If an insurer mails or delivers to an insured a renewal notice, bill,
 7 certificate, or policy indicating the insurer's willingness to renew a
 8 policy and the insured does not respond, the insurer is not required to
 9 provide to the insured notice of intention not to renew.

10 SECTION 89. IC 27-7-12-9, AS ADDED BY P.L.203-2001,
 11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 9. (a) The following
 13 persons are immune from civil liability for any communication giving
 14 notice of or specifying the reasons for a termination or for any
 15 statement made in connection with an attempt to discover or verify the
 16 existence of conditions that would be a reason for a termination under
 17 this chapter:

18 (1) Employees of the department of insurance.

19 (2) An insurer or its authorized representative, agent, or
 20 employee.

21 (3) A licensed insurance ~~agent~~ **producer**.

22 (4) A person furnishing information to an insurer as to reasons for
 23 a termination.

24 (b) This section does not apply to statements made in bad faith with
 25 malice in fact.

26 SECTION 90. IC 27-8-1-18 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 28 Sec. 18. The provisions of this chapter shall in no way apply to any
 29 secret or fraternal society or lodge or association which, under the
 30 supervision of a grand or supreme lodge, secures membership through
 31 the lodge system exclusively, and provides insurance to its members,
 32 nor to insurance organizations of a purely benevolent character which
 33 pay no commission nor employ any paid ~~agent~~ **insurance producer**,
 34 organized under the laws of this or any other state.

35 SECTION 91. IC 27-8-3-25 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 37 Sec. 25. The fees to be paid by each such corporation, association, or
 38 society to the insurance commissioner for the authority to such
 39 corporation, association, or society, and its ~~agents~~ **insurance**
 40 **producers** under the license granted by him to each corporation,
 41 association, or society, to transact business in the state of Indiana shall
 42 be as follows:



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1 For filing copy of charter or articles of incorporation, twenty-five
2 dollars (\$25).

3 For filing each annual statement, twenty dollars (\$20).

4 For issuing certificate of authority or license to company,
5 corporation, association or society, one dollar (\$1).

6 For issuing license to each ~~agent~~, **insurance producer**, one dollar
7 (\$1).

8 For affixing seal and certifying to any paper, one dollar (\$1).

9 For renewal of license, each such corporation, association, or
10 society shall file with the commissioner its annual statement, for
11 which it shall pay the sum of twenty dollars (\$20).

12 ~~For issuing license to each agent, one dollar (\$1):~~

13 ~~For affixing seal and certifying any paper, one dollar (\$1):~~

14 For the privilege of transacting business in this state, a foreign or alien
15 company, association, or society, admitted and licensed under this
16 chapter, shall pay an annual tax upon premiums or assessments derived
17 from business written within this state, such tax to be as defined and
18 determined under IC 27-1-18-2, which is declared to be applicable in
19 its terms and provisions to such a company, association, or society;
20 provided also, that when any other state or country shall impose any
21 obligations in excess of those imposed by this chapter upon any such
22 corporation, association, or society of this state, a like obligation shall
23 be imposed on similar corporations and their agents of such state or
24 country doing business in this state; and provided also, that such
25 corporation, association, or society, in transacting business in this state,
26 shall be subject only to the provisions of this chapter.

27 SECTION 92. IC 27-8-5-3, AS AMENDED BY P.L.162-2001,
28 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. (a) Except as provided
30 in subsection (c), each policy delivered or issued for delivery to any
31 person in this state shall contain the provisions specified in this
32 subsection in the words in which the same appear in this section.
33 However, the insurer may, at its option, substitute for one (1) or more
34 of the provisions corresponding provisions of different wording
35 approved by the commissioner that are in each instance no less
36 favorable in any respect to the insured or the beneficiary. The
37 provisions shall be preceded individually by the caption appearing in
38 this subsection or, at the option of the insurer, by appropriate individual
39 or group captions or subcaptions as the commissioner may approve.

40 (1) A provision as follows: ENTIRE CONTRACT; CHANGES:
41 This policy, including the endorsements and the attached papers, if any,
42 constitutes the entire contract of insurance. No change in this policy

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1 shall be valid until approved by an executive officer of the insurer and
 2 unless such approval be endorsed hereon or attached hereto. No ~~agent~~
 3 **insurance producer** has authority to change this policy or to waive any
 4 of its provisions.

5 (2) A provision as follows: TIME LIMIT ON CERTAIN
 6 DEFENSES: (A) After two (2) years from the date of issue of this
 7 policy no misstatements, except fraudulent misstatements, made by the
 8 applicant in the application for such policy shall be used to void the
 9 policy or to deny a claim for loss incurred or disability (as defined in
 10 the policy) commencing after the expiration of such two (2) year
 11 period.

12 The foregoing policy provision shall not be so construed as to affect
 13 any legal requirement for avoidance of a policy of denial of a claim
 14 during such initial two (2) year period, nor to limit the application of
 15 subsection (b), (1), (2), (3), (4), and (5) in the event of misstatement
 16 with respect to age or occupation or other insurance.

17 A policy which the insured has the right to continue in force subject
 18 to its terms by the timely payment of premium:

19 (1) until at least age fifty (50); or

20 (2) in the case of a policy issued after forty-four (44) years of age,
 21 for at least five (5) years from its date of issue;

22 may contain in lieu of the foregoing the following provision (from
 23 which the clause in parentheses may be omitted at the insurer's option)
 24 under the caption "INCONTESTABLE": After this policy has been in
 25 force for a period of two (2) years during the lifetime of the insured
 26 (excluding any period during which the insured is disabled), it shall
 27 become incontestable as to the statements contained in the application.

28 (B) No claim for loss incurred or disability (as defined in the policy)
 29 commencing after two (2) years from the date of issue of this policy
 30 shall be reduced or denied on the ground that a disease or physical
 31 condition, not excluded from coverage by name or specific description
 32 effective on the date of loss, had existed prior to the effective date of
 33 coverage of this policy.

34 (3) A provision as follows: GRACE PERIOD: A grace period of
 35 (insert a number not less than "7" for weekly premium policies, "10"
 36 for monthly premium policies and "31" for all other policies) days will
 37 be granted for the payment of each premium falling due after the first
 38 premium, during which grace period the policy shall continue in force.

39 A policy in which the insurer reserves the right to refuse renewal
 40 shall have, at the beginning of the above provision: "Unless not less
 41 than thirty (30) days prior to the premium due date the insurer has
 42 delivered to the insured or has mailed to the insured's last address as

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1 shown by the records of the insurer written notice of its intention not
 2 to renew this policy beyond the period for which the premium has been
 3 accepted."

4 Each policy in which the insurer reserves the right to refuse renewal
 5 on an individual basis shall provide, in substance, in a provision of the
 6 policy, in an endorsement on the policy, or in a rider attached to the
 7 policy, that subject to the right to terminate the policy upon
 8 non-payment of premium when due, such right to refuse renewal shall
 9 not be exercised before the renewal date occurring on, or after and
 10 nearest, each anniversary, or in the case of lapse and reinstatement at
 11 the renewal date occurring on, or after and nearest, each anniversary of
 12 the last reinstatement, and that any refusal or renewal shall be without
 13 prejudice to any claim originating while the policy is in force. The
 14 preceding sentence shall not apply to accident insurance only policies.

15 (4) A provision as follows: REINSTATEMENT: If any renewal
 16 premium is not paid within the time granted the insured for payment,
 17 a subsequent acceptance of premium by the insurer or by any agent
 18 authorized by the insurer to accept such premium, without requiring in
 19 connection therewith an application for reinstatement, shall reinstate
 20 the policy. Provided, that if the insurer or such agent requires an
 21 application for reinstatement and issues a conditional receipt for the
 22 premium tendered, the policy will be reinstated upon approval of such
 23 application by the insurer or, lacking such approval, upon the forty-fifth
 24 day following the date of such conditional receipt unless the insurer has
 25 previously notified the insured in writing of its disapproval of such
 26 application. The reinstated policy shall cover only loss resulting from
 27 such accidental injury as may be sustained after the date of
 28 reinstatement and loss due to such sickness as may begin more than ten
 29 (10) days after such date. In all other respects the insured and insurer
 30 shall have the same rights as they had under the policy immediately
 31 before the due date of the defaulted premium, subject to any provisions
 32 endorsed hereon or attached hereto in connection with the
 33 reinstatement. Any premium accepted in connection with a
 34 reinstatement shall be applied to a period for which premium has not
 35 been previously paid, but not to any period more than sixty (60) days
 36 prior to the date of reinstatement.

37 The last sentence of the above provision may be omitted from any
 38 policy which the insured has the right to continue in force subject to its
 39 terms by the timely payment of premiums:

- 40 (1) until at least fifty (50) years of age; or
 41 (2) in the case of a policy issued after forty-four (44) years of age,
 42 for at least five (5) years from its date of issue.

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1 (5) A provision as follows: NOTICE OF CLAIM: Written notice of
 2 claim must be given to the insurer within twenty (20) days after the
 3 occurrence or commencement of any loss covered by the policy, or as
 4 soon thereafter as is reasonably possible. Notice given by or on behalf
 5 of the insured or the beneficiary to the insurer at _____ (insert the
 6 location of such office as the insurer may designate for the purpose), or
 7 to any authorized agent of the insurer, with information sufficient to
 8 identify the insured, shall be deemed notice to the insurer.

9 In a policy providing a loss-of-time benefit which may be payable
 10 for at least two (2) years, an insurer may insert the following between
 11 the first and second sentences of the above provision:

12 Subject to the qualifications set forth below, if the insured suffers
 13 loss of time on account of disability for which indemnity may be
 14 payable for at least two (2) years, the insured shall, at least once in
 15 every six (6) months after having given notice of claim, give to the
 16 insurer notice of continuance of said disability, except in the event of
 17 legal incapacity. The period of six (6) months following any filing of
 18 proof by the insured or any payment by the insurer on account of such
 19 claim or any denial of liability in whole or in part by the insurer shall
 20 be excluded in applying this provision. Delay in the giving of such
 21 notice shall not impair the insurer's right to any indemnity which would
 22 otherwise have accrued during the period of six (6) months preceding
 23 the date on which such notice is actually given.

24 (6) A provision as follows: CLAIM FORMS: The insurer, upon
 25 receipt of a notice of claim, will furnish to the claimant such forms as
 26 are usually furnished by it for filing proofs of loss. If such forms are not
 27 furnished within fifteen (15) days after the giving of such notice, the
 28 claimant shall be deemed to have complied with the requirements of
 29 this policy as to proof of loss upon submitting, within the time fixed in
 30 the policy for filing proofs of loss, written proof covering the
 31 occurrence, the character, and the extent of the loss for which claim is
 32 made.

33 (7) A provision as follows: PROOFS OF LOSS: Written proof of
 34 loss must be furnished to the insurer at its said office in case of claim
 35 for loss for which this policy provides any periodic payment contingent
 36 upon continuing loss within ninety (90) days after the termination of
 37 the period for which the insurer is liable and in case of claim for any
 38 other loss within ninety (90) days after the date of such loss. Failure to
 39 furnish such proof within the time required shall not invalidate nor
 40 reduce any claim if it was not reasonably possible to give proof within
 41 such time, provided such proof is furnished as soon as reasonably
 42 possible and in no event, except in the absence of legal capacity, later

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1 than one (1) year from the time proof is otherwise required.

2 (8) A provision as follows: TIME OF PAYMENT OF CLAIMS:
3 Indemnities payable under this policy for any loss other than loss for
4 which this policy provides any periodic payment will be paid:

5 (1) immediately upon receipt of due written proof of such loss; or

6 (2) in accordance with IC 27-8-5.7;

7 whichever is more favorable to the policyholder. Subject to due written
8 proof of loss, all accrued indemnities for loss for which this policy
9 provides periodic payment will be paid _____ (insert period for
10 payment which must not be less frequently than monthly) and any
11 balance remaining unpaid upon the termination of liability will be paid
12 immediately upon receipt of due written proof. This provision must
13 reflect compliance with IC 27-8-5.7.

14 (9) A provision as follows: PAYMENT OF CLAIMS: Indemnity for
15 loss of life will be payable in accordance with the beneficiary
16 designation and the provisions respecting such payment which may be
17 prescribed herein and effective at the time of payment. If no such
18 designation or provision is then effective, such indemnity shall be
19 payable to the estate of the insured. Any other accrued indemnities
20 unpaid at the insured's death may, at the option of the insurer, be paid
21 either to such beneficiary or to such estate. All other indemnities will
22 be payable to the insured.

23 The following provisions, or either of them, may be included with
24 the foregoing provision at the option of the insurer:

25 If any indemnity of this policy shall be payable to the estate of the
26 insured, or to an insured or beneficiary who is a minor or otherwise not
27 competent to give a valid release, the insurer may pay such indemnity,
28 up to an amount not exceeding \$ _____ (insert an amount which
29 shall not exceed \$1,000), to any relative by blood or connection by
30 marriage of the insured or beneficiary who is deemed by the insurer to
31 be equitably entitled thereto. Any payment made by the insurer in good
32 faith pursuant to this provision shall fully discharge the insurer to the
33 extent of such payment.

34 Subject to any written direction of the insured in the application or
35 otherwise all or a portion of any indemnities provided by this policy on
36 account of hospital, nursing, medical, or surgical services may, at the
37 insurer's option and unless the insured requests otherwise in writing not
38 later than the time of filing proofs of such loss, be paid directly to the
39 hospital or person rendering such services; but it is not required that the
40 service be rendered by a particular hospital or person.

41 For the purposes of this section a "minor" is a person under the age
42 of eighteen (18) years. A person eighteen (18) years of age or over is

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competent, insofar as the person's age is concerned, to sign a valid release.

(10) A provision as follows: PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

(11) A provision as follows: LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three (3) years after the time written proof of loss is required to be furnished.

(12) A provision as follows: CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

(13) A provision as follows: GUARANTEED RENEWABILITY: In compliance with the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191), renewability is guaranteed.

(b) Except as provided in subsection (c), no policy delivered or issued for delivery to any person in Indiana shall contain provisions respecting the matters set forth below unless the provisions are in the words in which the provisions appear in this section. However, the insurer may use, instead of any provision, a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any substitute provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by appropriate individual or group captions or subcaptions as the commissioner may approve.

(1) A provision as follows: CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed the insured's occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid

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1 would have purchased at the rates and within the limits fixed by the
 2 insurer for such more hazardous occupation. If the insured changes the
 3 insured's occupation to one classified by the insurer as less hazardous
 4 than that stated in this policy, the insurer, upon receipt of proof of such
 5 change of occupation, will reduce the premium rate accordingly, and
 6 will return the excess pro rata unearned premium from the date of
 7 change of occupation or from the policy anniversary date immediately
 8 preceding receipt of such proof, whichever is the more recent. In
 9 applying this provision, the classification of occupational risk and the
 10 premium rates shall be such as have been last filed by the insurer prior
 11 to the occurrence of the loss for which the insurer is liable or prior to
 12 date of proof of change in occupation with the state official having
 13 supervision of insurance in the state where the insured resided at the
 14 time this policy was issued; but if such filing was not required, then the
 15 classification of occupational risk and the premium rates shall be those
 16 last made effective by the insurer in such state prior to the occurrence
 17 of the loss or prior to the date of proof of change in occupation.

18 (2) A provision as follows: MISSTATEMENT OF AGE: If the age
 19 of the insured has been misstated, all amounts payable under this policy
 20 shall be such as the premium paid would have purchased at the correct
 21 age.

22 (3) A provision as follows: OTHER INSURANCE IN THIS
 23 INSURER: If an accident or sickness or accident and sickness policy
 24 or policies previously issued by the insurer to the insured are in force
 25 concurrently herewith, making the aggregate indemnity for _____
 26 (insert type of coverage or coverages) in excess of \$ _____ (insert
 27 maximum limit of indemnity or indemnities) the excess insurance shall
 28 be void and all premiums paid for such excess shall be returned to the
 29 insured or to the insured's estate. Or, instead of that provision:
 30 Insurance effective at any one (1) time on the insured under a like
 31 policy or policies, in this insurer is limited to the one (1) such policy
 32 elected by the insured, the insured's beneficiary or the insured's estate,
 33 as the case may be, and the insurer will return all premiums paid for all
 34 other such policies.

35 (4) A provision as follows: INSURANCE WITH OTHER
 36 INSURER: If there is other valid coverage, not with this insurer,
 37 providing benefits for the same loss on a provision of service basis or
 38 on an expense incurred basis and of which this insurer has not been
 39 given written notice prior to the occurrence or commencement of loss,
 40 the only liability under any expense incurred coverage of this policy
 41 shall be for such proportion of the loss as the amount which would
 42 otherwise have been payable hereunder plus the total of the like



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1 amounts under all such other valid coverages for the same loss of
 2 which this insurer had notice bears to the total like amounts under all
 3 valid coverages for such loss, and for the return of such portion of the
 4 premiums paid as shall exceed the pro-rata portion of the amount so
 5 determined. For the purpose of applying this provision when other
 6 coverage is on a provision of service basis, the "like amount" of such
 7 other coverage shall be taken as the amount which the services
 8 rendered would have cost in the absence of such coverage.

9 If the foregoing policy provision is included in a policy which also
 10 contains the next following policy provision there shall be added to the
 11 caption of the foregoing provision the phrase "EXPENSE INCURRED
 12 BENEFITS". The insurer may, at its option, include in this provision
 13 a definition of "other valid coverage," approved as to form by the
 14 commissioner, which definition shall be limited in subject matter to
 15 coverage provided by organizations subject to regulation by insurance
 16 law or by insurance authorities of this or any other state of the United
 17 States or any province of Canada, and by hospital or medical service
 18 organizations, and to any other coverage the inclusion of which may be
 19 approved by the commissioner. In the absence of such definition such
 20 term shall not include group insurance, automobile medical payments
 21 insurance, or coverage provided by hospital or medical service
 22 organizations or by union welfare plans or employer or employee
 23 benefit organizations. For the purpose of applying the foregoing policy
 24 provision with respect to any insured, any amount of benefit provided
 25 for such insured pursuant to any compulsory benefit statute (including
 26 any worker's compensation or employer's liability statute) whether
 27 provided by a governmental agency or otherwise shall in all cases be
 28 deemed to be "other valid coverage" of which the insurer has had
 29 notice. In applying the foregoing policy provision no third party
 30 liability coverage shall be included as "other valid coverage".

31 (5) A provision as follows: INSURANCE WITH OTHER
 32 INSURERS: If there is other valid coverage, not with this insurer,
 33 providing benefits for the same loss on other than an expense incurred
 34 basis and of which this insurer has not been given written notice prior
 35 to the occurrence or commencement of loss, the only liability for such
 36 benefits under this policy shall be for such proportion of the
 37 indemnities otherwise provided hereunder for such loss as the like
 38 indemnities of which the insurer had notice (including the indemnities
 39 under this policy) bear to the total amount of all like indemnities for
 40 such loss, and for the return of such portion of the premium paid as
 41 shall exceed the pro-rata portion for the indemnities thus determined.
 42 If the foregoing policy provision is included in a policy which also

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contains the next preceding policy provision, there shall be added to the caption of the foregoing provision the phrase "-OTHER BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage to the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any worker's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage".

(6) A provision as follows: RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the insured's average monthly earnings for the period of two (2) years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two (2) years as shall exceed the pro rata amount of the premiums for the benefits actually paid; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars (\$200) or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:



- 1 (1) until at least fifty (50) years of age; or
2 (2) in the case of a policy issued after forty-four (44) years of age,
3 for at least five (5) years from its date of issue.

4 The insurer may, at its option, include in this provision a definition of
5 "valid loss of time coverage", approved as to form by the
6 commissioner, which definition shall be limited in subject matter to
7 coverage provided by governmental agencies or by organizations
8 subject to regulation by insurance law or by insurance authorities of
9 this or any other state of the United States or any province of Canada,
10 or to any other coverage the inclusion of which may be approved by the
11 commissioner or any combination of such coverages. In the absence of
12 such definition the term shall not include any coverage provided for the
13 insured pursuant to any compulsory benefit statute (including any
14 worker's compensation or employer's liability statute), or benefits
15 provided by union welfare plans or by employer or employee benefit
16 organizations.

17 (7) A provision as follows: UNPAID PREMIUM: Upon the payment
18 of a claim under this policy, any premium then due and unpaid or
19 covered by any note or written order may be deducted therefrom.

20 (8) A provision as follows: CONFORMITY WITH STATE
21 STATUTES: Any provision of this policy which, on its effective date,
22 is in conflict with the statutes of the state in which the insured resides
23 on such date is hereby amended to conform to the minimum
24 requirements of such statutes.

25 (9) A provision as follows: ILLEGAL OCCUPATION: The insurer
26 shall not be liable for any loss to which a contributing cause was the
27 insured's commission of or attempt to commit a felony or to which a
28 contributing cause was the insured's being engaged in an illegal
29 occupation.

30 (10) A provision as follows: INTOXICANTS AND NARCOTICS:
31 The insurer shall not be liable for any loss sustained or contracted in
32 consequence of the insured's being intoxicated or under the influence
33 of any narcotic unless administered on the advice of a physician.

34 (c) If any provision of this section is in whole or in part inapplicable
35 to or inconsistent with the coverage provided by a particular form of
36 policy the insurer, with the approval of the commissioner, shall omit
37 from such policy any inapplicable provision or part of a provision, and
38 shall modify any inconsistent provision or part of the provision in such
39 manner as to make the provision as contained in the policy consistent
40 with the coverage provided by the policy.

41 (d) The provisions which are the subject of subsections (a) and (b),
42 or any corresponding provisions which are used in lieu thereof in

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1 accordance with such subsections, shall be printed in the consecutive
 2 order of the provisions in such subsections or, at the option of the
 3 insurer, any such provision may appear as a unit in any part of the
 4 policy, with other provisions to which it may be logically related,
 5 provided the resulting policy shall not be in whole or in part
 6 unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a
 7 person to whom the policy is offered, delivered, or issued.

8 (e) "Insured", as used in this chapter, shall not be construed as
 9 preventing a person other than the insured with a proper insurable
 10 interest from making application for and owning a policy covering the
 11 insured or from being entitled under such a policy to any indemnities,
 12 benefits, and rights provided therein.

13 (f)(1) Any policy of a foreign or alien insurer, when delivered or
 14 issued for delivery to any person in this state, may contain any
 15 provision which is not less favorable to the insured or the beneficiary
 16 than is provided in this chapter and which is prescribed or required by
 17 the law of the state under which the insurer is organized.

18 (f)(2) Any policy of a domestic insurer may, when issued for
 19 delivery in any other state or country, contain any provision permitted
 20 or required by the laws of such other state or country.

21 (g) The commissioner may make reasonable rules under IC 4-22-2
 22 concerning the procedure for the filing or submission of policies
 23 subject to this chapter as are necessary, proper, or advisable to the
 24 administration of this chapter. This provision shall not abridge any
 25 other authority granted the commissioner by law.

26 SECTION 93. IC 27-8-5.7-5, AS ADDED BY P.L.162-2001,
 27 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2002]: Sec. 5. (a) An insurer shall pay or deny each clean
 29 claim in accordance with section 6 of this chapter.

30 (b) An insurer shall notify a provider of any deficiencies in a
 31 submitted claim not ~~less~~ **more** than:

32 (1) thirty (30) days **after the claim is received by the insurer,**
 33 for a claim that is filed electronically; or

34 (2) forty-five (45) days **after the claim is received by the**
 35 **insurer,** for a claim that is filed on paper;

36 and describe any remedy necessary to establish a clean claim.

37 (c) Failure of an insurer to notify a provider as required under
 38 subsection (b) establishes the submitted claim as a clean claim.

39 SECTION 94. IC 27-8-8-18 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 41 Sec. 18. A person, including an insurer, ~~agent~~ **insurance producer,** or
 42 affiliate of an insurer shall not place before the public, directly or

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indirectly, an announcement or statement that uses the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. This section does not apply to the association or any other entity that does not sell or solicit insurance.

SECTION 95. IC 27-8-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of seven (7) members whose principal residence is in Indiana selected as follows:

(1) Three (3) members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair,



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1 reasonable, and equitable administration of the association and
 2 provides for the sharing of association losses on an equitable,
 3 proportionate basis among the member carriers, health maintenance
 4 organizations, limited service health maintenance organizations, and
 5 self-insurers. If the association fails to submit a suitable plan of
 6 operation within one hundred eighty (180) days after the appointment
 7 of the board of directors, or at any time thereafter the association fails
 8 to submit suitable amendments to the plan, the commissioner shall
 9 adopt rules under IC 4-22-2 necessary or advisable to implement this
 10 section. These rules are effective until modified by the commissioner
 11 or superseded by a plan submitted by the association and approved by
 12 the commissioner. The plan of operation must:

- 13 (1) establish procedures for the handling and accounting of assets
 14 and money of the association;
- 15 (2) establish the amount and method of reimbursing members of
 16 the board;
- 17 (3) establish regular times and places for meetings of the board of
 18 directors;
- 19 (4) establish procedures for records to be kept of all financial
 20 transactions, and for the annual fiscal reporting to the
 21 commissioner;
- 22 (5) establish procedures whereby selections for the board of
 23 directors will be made and submitted to the commissioner for
 24 approval;
- 25 (6) contain additional provisions necessary or proper for the
 26 execution of the powers and duties of the association; and
- 27 (7) establish procedures for the periodic advertising of the general
 28 availability of the health insurance coverages from the
 29 association.

30 (d) The plan of operation may provide that any of the powers and
 31 duties of the association be delegated to a person who will perform
 32 functions similar to those of this association. A delegation under this
 33 section takes effect only with the approval of both the board of
 34 directors and the commissioner. The commissioner may not approve a
 35 delegation unless the protections afforded to the insured are
 36 substantially equivalent to or greater than those provided under this
 37 chapter.

38 (e) The association has the general powers and authority enumerated
 39 by this subsection in accordance with the plan of operation approved
 40 by the commissioner under subsection (c). The association has the
 41 general powers and authority granted under the laws of Indiana to
 42 carriers licensed to transact the kinds of health care services or health

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insurance described in section 1 of this chapter and also has the specific authority to do the following:

- (1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.
- (2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.
- (3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.
- (4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.
- (5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.
- (6) Pool risks among members.
- (7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.
- (8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.
- (9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.
- (10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.
- (11) Hire an independent consultant.
- (12) Develop a method of advising applicants of the availability of other coverages outside the association and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.
- (13) Provide for the use of managed care plans for insureds, including the use of:
 - (A) health maintenance organizations; and
 - (B) preferred provider plans.
- (14) Solicit bids directly from providers for coverage under this

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1 chapter.

2 (f) Rates for coverages issued by the association may not be
3 unreasonable in relation to the benefits provided, the risk experience,
4 and the reasonable expenses of providing the coverage. Separate scales
5 of premium rates based on age apply for individual risks. Premium
6 rates must take into consideration the extra morbidity and
7 administration expenses, if any, for risks insured in the association. The
8 rates for a given classification may not be more than one hundred fifty
9 percent (150%) of the average premium rate for that class charged by
10 the five (5) carriers with the largest premium volume in the state during
11 the preceding calendar year. In determining the average rate of the five
12 (5) largest carriers, the rates charged by the carriers shall be actuarially
13 adjusted to determine the rate that would have been charged for
14 benefits identical to those issued by the association. All rates adopted
15 by the association must be submitted to the commissioner for approval.

16 (g) Following the close of the association's fiscal year, the
17 association shall determine the net premiums, the expenses of
18 administration, and the incurred losses for the year. Any net loss shall
19 be assessed by the association to all members in proportion to their
20 respective shares of total health insurance premiums, excluding
21 premiums for Medicaid contracts with the state of Indiana, received in
22 Indiana during the calendar year (or with paid losses in the year)
23 coinciding with or ending during the fiscal year of the association or
24 any other equitable basis as may be provided in the plan of operation.
25 For self-insurers, health maintenance organizations, and limited service
26 health maintenance organizations that are members of the association,
27 the proportionate share of losses must be determined through the
28 application of an equitable formula based upon claims paid, excluding
29 claims for Medicaid contracts with the state of Indiana, or the value of
30 services provided. In sharing losses, the association may abate or defer
31 in any part the assessment of a member, if, in the opinion of the board,
32 payment of the assessment would endanger the ability of the member
33 to fulfill its contractual obligations. The association may also provide
34 for interim assessments against members of the association if necessary
35 to assure the financial capability of the association to meet the incurred
36 or estimated claims expenses or operating expenses of the association
37 until the association's next fiscal year is completed. Net gains, if any,
38 must be held at interest to offset future losses or allocated to reduce
39 future premiums. Assessments must be determined by the board
40 members specified in subsection (b)(1), subject to final approval by the
41 commissioner.

42 (h) The association shall conduct periodic audits to assure the



1 general accuracy of the financial data submitted to the association, and
 2 the association shall have an annual audit of its operations by an
 3 independent certified public accountant.

4 (i) The association is subject to examination by the department of
 5 insurance under IC 27-1-3.1. The board of directors shall submit, not
 6 later than March 30 of each year, a financial report for the preceding
 7 calendar year in a form approved by the commissioner.

8 (j) All policy forms issued by the association must conform in
 9 substance to prototype forms developed by the association, must in all
 10 other respects conform to the requirements of this chapter, and must be
 11 filed with and approved by the commissioner before their use.

12 (k) The association may not issue an association policy to any
 13 individual who, on the effective date of the coverage applied for, does
 14 not meet the eligibility requirements of section 5.1 of this chapter.

15 (l) The association shall pay an ~~agent's~~ **insurance producer's**
 16 referral fee of twenty-five dollars (\$25) to each insurance ~~agent~~
 17 **producer** who refers an applicant to the association if that applicant is
 18 accepted.

19 (m) The association and the premium collected by the association
 20 shall be exempt from the premium tax, the gross income tax, the
 21 adjusted gross income tax, supplemental corporate net income, or any
 22 combination of these, or similar taxes upon revenues or income that
 23 may be imposed by the state.

24 (n) Members who after July 1, 1983, during any calendar year, have
 25 paid one (1) or more assessments levied under this chapter may either:

26 (1) take a credit against premium taxes, gross income taxes,
 27 adjusted gross income taxes, supplemental corporate net income
 28 taxes, or any combination of these, or similar taxes upon revenues
 29 or income of member insurers that may be imposed by the state,
 30 up to the amount of the taxes due for each calendar year in which
 31 the assessments were paid and for succeeding years until the
 32 aggregate of those assessments have been offset by either credits
 33 against those taxes or refunds from the association; or

34 (2) any member insurer may include in the rates for premiums
 35 charged for insurance policies to which this chapter applies
 36 amounts sufficient to recoup a sum equal to the amounts paid to
 37 the association by the member less any amounts returned to the
 38 member insurer by the association, and the rates shall not be
 39 deemed excessive by virtue of including an amount reasonably
 40 calculated to recoup assessments paid by the member.

41 (o) The association shall provide for the option of monthly
 42 collection of premiums.

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SECTION 96. IC 27-8-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 10. Before January 1, 1996, the board of directors of the association shall establish eligibility guidelines for the issuance of an association policy under this chapter to prohibit an:

- (1) employer;
- (2) insurance ~~agent~~ **producer**; or
- (3) insurance broker;

from placing in or referring to the association an individual who works for an employer who offers employees an employee welfare benefit plan (as defined in 29 U.S.C. 1002).

SECTION 97. IC 27-8-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 7. (a) The insurance commissioner shall adopt rules under IC 4-22-2 establishing standards of full and fair disclosure concerning long term care insurance policies. The standards must require disclosure of information concerning the following:

- (1) The sale of the policies.
- (2) Terms of renewability.
- (3) Initial and subsequent terms of eligibility.
- (4) Nonduplication of coverage provisions.
- (5) Coverage of dependents.
- (6) Preexisting conditions.
- (7) Termination of insurance coverage.
- (8) Probationary periods.
- (9) Limitations on coverage.
- (10) Exceptions to coverage.
- (11) Reductions from coverage.
- (12) Elimination periods.
- (13) Requirements for replacement.
- (14) Recurrent conditions.
- (15) Definitions of terms.
- (16) Continuation or conversion of coverage.

(b) The insurance commissioner shall adopt rules under IC 4-22-2 to establish minimum standards concerning:

- (1) marketing practices;
- (2) ~~agent~~ **insurance producer** continuing education;
- (3) penalties; and
- (4) reporting practices;

for long term care insurance.

(c) Rules adopted by the insurance commissioner under this section must:



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- (1) recognize the unique, developing, and experimental nature of long term care insurance; and
- (2) where necessary or appropriate, recognize the distinctions between group insurance policies and individual insurance policies.

SECTION 98. IC 27-8-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 14. (a) The insurer shall deliver an outline of the coverage provided by an individual long term care insurance policy to the prospective applicant at the time of initial solicitation through means that prominently direct the attention of the recipient to the document and the document's purpose.

(b) The commissioner shall prescribe a standard format regarding:

- (1) style;
- (2) arrangement;
- (3) overall appearance; and
- (4) content;

for an outline of coverage.

(c) An **agent insurance producer** who solicits a long term care insurance policy shall deliver the outline of coverage before the presentation of an application or enrollment form.

(d) The outline of coverage must be presented in conjunction with any application or enrollment form when there is a direct response solicitation of long term care insurance.

(e) An outline of coverage required under this section must include the following:

- (1) A description of the principal benefits and coverage provided in the policy.
- (2) A statement of the principal exclusions, reductions, and limitations set forth in the policy.
- (3) A statement of the policy's renewal provisions, including any reservation by the insurer of a right to change premiums.
- (4) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine the exact terms of the coverage provided by the policy.
- (5) A description of the terms under which the policy may be returned and the premium refunded.
- (6) A brief description of the relationship of the cost of care and benefits.
- (7) A statement of the terms under which the policy or certificate may continue or be discontinued, including any reservation in the

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1 policy of the right to change the premium.

2 (8) A specific statement of the provisions for continuation or
3 conversion of group coverage.

4 SECTION 99. IC 27-8-12-18 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
6 Sec. 18. (a) As used in this section, "compensation" includes pecuniary
7 and nonpecuniary remuneration of any kind relating to the sale or
8 renewal of the policy or certificate including, but not limited to, the
9 following:

10 (1) Bonuses.

11 (2) Gifts.

12 (3) Prizes.

13 (4) Awards.

14 (5) Finders fees.

15 (b) An insurer or other entity that provides a commission or other
16 compensation to an ~~agent~~ **insurance producer** or other representative
17 for the sale of a long term care insurance policy may not violate the
18 following conditions:

19 (1) The amount of the first year commission or first year
20 compensation for selling or servicing the policy may not exceed
21 two hundred percent (200%) of the amount of the commission or
22 other compensation paid in the second year.

23 (2) The amount of commission or other compensation provided
24 in years after the second year must be equal to the amount
25 provided in the second year.

26 (3) A commission or other compensation must be provided each
27 year for at least five (5) years after the first year.

28 (c) If an existing long term care policy or certificate is replaced, the
29 insurer or other entity that issues the replacement policy may not
30 provide, and its ~~agent~~ **insurance producer** may not accept,
31 compensation in an amount greater than the renewal compensation
32 payable by the replacing insurer on renewal policies, unless the
33 benefits of the replacement policy or certificate are clearly and
34 substantially greater than the benefits under the replaced policy or
35 certificate.

36 (d) This section does not apply to the following:

37 (1) Life insurance policies and certificates.

38 (2) A policy or certificate that is sponsored by an employer for the
39 benefit of:

40 (A) the employer's employees; or

41 (B) the employer's employees and their dependents.

42 SECTION 100. IC 27-8-12-19 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 19. (a) In addition to any other sanction provided under this article, the commissioner may impose a civil penalty against an insurer who has violated this chapter or rules adopted under this chapter. A penalty imposed under this section must be the greater of:

- (1) three (3) times the amount of the commissions paid for each policy involved in the violation; or
- (2) ten thousand dollars (\$10,000).

(b) In addition to any other sanction provided under this title, the commissioner may impose a penalty against an insurance ~~agent~~ **producer** who has violated this chapter or rules adopted under this chapter. The penalty must be the greater of:

- (1) up to three (3) times the amount of the commissions paid for each policy involved in the violation; or
- (2) twenty-five hundred dollars (\$2,500).

SECTION 101. IC 27-8-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 2. As used in this chapter, "medicare supplement insurance solicitation" means a meeting between an insurance ~~agent~~ **producer** and another individual at which the ~~agent~~ **insurance producer** discusses the possible issuance of a medicare supplement policy to the other individual.

SECTION 102. IC 27-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 4. (a) Following a medicare supplement insurance solicitation, an ~~agent~~ **insurance producer** shall give the individual involved in the solicitation a receipt for materials received by the ~~agent~~ **insurance producer** as a result of the solicitation.

(b) The receipt required under subsection (a) must be dated and signed by the ~~agent~~ **insurance producer** and must set forth the following:

- (1) An itemized list of the materials received by the ~~agent~~ **insurance producer**.
- (2) The ~~agent's~~ **insurance producer's** name.
- (3) The address and telephone number of the ~~agent's~~ **insurance producer's** office.

(c) As used in this section, "materials" includes any:

- (1) document;
- (2) cash;
- (3) money order; or
- (4) check or draft;

received by the ~~agent~~ **insurance producer**. The term does not include

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1 an application for a policy.

2 SECTION 103. IC 27-8-15-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. This chapter applies
4 to any individual or group health insurance plan that is issued for
5 delivery in Indiana to at least ~~three (3)~~ **two (2)** employees of a small
6 employer located in Indiana if one (1) of the following conditions is
7 met:

8 (1) Any part of the premium or benefits is paid by a small
9 employer or any covered individual is reimbursed, whether
10 through wage adjustments or otherwise, by a small employer for
11 any part of the premium not including the administrative expenses
12 of administering a payroll deduction plan where the employee
13 contributes one hundred percent (100%) of the premium without
14 reimbursement.

15 (2) The health benefit plan is treated by the employer or any of the
16 covered individuals as part of a plan or program for purposes of
17 Section 106 or 162 of the United States Internal Revenue Code.

18 SECTION 104. IC 27-8-16-1 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) As used in this
20 chapter, "claim review agent" means any entity performing medical
21 claims review on behalf of an insurance company, a health
22 maintenance organization, or another benefit program providing
23 payment, reimbursement, or indemnification for health care costs to an
24 enrollee.

25 (b) The term does not include the following:

26 (1) An insurance company authorized under IC 27-1-3 or
27 IC 27-1-17 to do business in Indiana or the company's affiliated
28 companies.

29 (2) An entity acting on behalf of the federal or state government.
30 However, an agent described in this subdivision who performs
31 medical claims review for a person other than the federal or state
32 government is a claim review agent who is subject to the
33 requirements of this chapter.

34 (3) A health maintenance organization or limited service health
35 maintenance organization that holds a certificate of authority to
36 operate under IC 27-13.

37 (4) An insurance administrator that ~~holds a certificate of~~
38 ~~registration issued is licensed~~ under IC 27-1-25.

39 (5) An individual qualified and acting as an expert witness under
40 the Indiana Rules of Trial Procedure.

41 SECTION 105. IC 27-8-16-1.5 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1.5. (a) As used in this

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chapter, "claim review consultant" means a person who:

(1) makes a recommendation or provides consultation to:

(A) an entity engaged in performing medical claims review; or

(B) an insurance company, a health maintenance organization, or another benefit program providing payment, reimbursement, or indemnification for health care costs to an enrollee;

concerning the appropriateness of a health care service or the amount charged for a health care service delivered to an enrollee in Indiana; and

(2) is not an employee of an entity referred to in subdivision

(1)(A) or (1)(B).

(b) Making a recommendation or providing consultation concerning a health care service does not render a person a claim review consultant under this section if the recommendation or consultation concerns:

(1) coverage provided; or

(2) medical services rendered;

under IC 22.

(c) The term "claim review consultant" does not include the following:

(1) An insurance company authorized under IC 27 to do business in Indiana.

(2) An entity acting on behalf of the federal or state government. However, an agent described in this subdivision who performs medical claims review for a person other than the federal or state government is a claim review agent who is subject to the requirements of this chapter.

(3) A health maintenance organization or limited service health maintenance organization that holds a certificate of authority to operate under IC 27-13.

(4) An insurance administrator ~~who holds a certificate of registration issued that is licensed~~ under IC 27-1-25.

(5) An individual qualified and acting as an expert witness under the Indiana Rules of Trial Procedure.

(6) A person who engages in the prospective, concurrent, or retrospective utilization review of health care services.

(7) A person who engages in the identification of alternative, optional medical care that:

(A) requires the approval of the enrollee or covered individual; and

(B) does not affect coverage or benefits if rejected by the enrollee or covered individual.

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(8) An individual who is a licensed health care provider who makes a recommendation or provides consultation concerning the appropriateness of health care service. However, this exception does not apply if the individual:

(A) makes any recommendations or provides consultation concerning the amount charged for a health care service delivered in Indiana;

(B) makes any recommendations or provides consultation concerning the appropriateness of hospital services provided by a hospital licensed under IC 12-25 or IC 16-21;

(C) is employed by or under contract with an entity that is required to be registered under this chapter; or

(D) has received more than five thousand dollars (\$5,000) in compensation during the present calendar year for providing consultation services concerning the appropriateness of health care services delivered to enrollees in Indiana.

(9) A claim review agent under section 1 of this chapter.

SECTION 106. IC 27-8-19.8-8.5, AS AMENDED BY P.L.132-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 8.5. The following must be licensed as **a life insurance agent an insurance producer with a life qualification** under ~~IC 27-1-15.6-7~~
IC 27-1-15.6-7:

(1) A viatical settlement broker.

(2) A person who solicits, offers, or attempts to negotiate a viatical settlement contract with a viator.

SECTION 107. IC 27-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 3. (a) A delinquency proceeding under this chapter may only be commenced by the commissioner. A court may not entertain, hear, or determine a proceeding commenced by any other person.

(b) A court may not entertain, hear, or determine any complaint requesting:

(1) the dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of any insurer; or

(2) an injunction, restraining order, or other relief preliminary to, incidental to, or relating to those proceedings other than in accordance with this article.

(c) In addition to other grounds for jurisdiction provided by the law, an Indiana court having jurisdiction of the subject matter has jurisdiction over a person served under the Indiana rules of court or other applicable law in an action brought by the receiver of a domestic

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insurer or an alien insurer domiciled in Indiana if the person served is:

(1) obligated to the insurer in any way as an incident to any agency or brokerage arrangement that may exist or has existed between the insurer and the ~~agent~~ **insurance producer** or broker, in any action on or incident to the obligation;

(2) a reinsurer who:

(A) has at any time written a policy of reinsurance for an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced; or

(B) is an ~~agent~~ **insurance producer** or broker of, or for, the reinsurer in any action on or incident to the reinsurance contract; or

(3) or has been an officer, manager, trustee, organizer, promoter, or person in a position of comparable authority or influence in an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced in any action resulting from such a relationship with the insurer.

(d) If it appears to a receiver appointed in a proceeding under this article that there has been criminal or tortious conduct, breach of any contractual or fiduciary obligation, or other unlawful conduct detrimental to the insurer by any director, officer, manager, ~~agent~~, **insurance producer**, broker, employee, or other person or entity, the receiver may pursue all appropriate legal remedies on behalf of the insurer.

(e) If the court on motion of any party finds that any action should as a matter of substantial justice be tried in a forum outside Indiana, the court may enter an order to stay further proceedings on the action in Indiana.

(f) All action authorized by this section must be brought in the Marion County circuit court.

SECTION 108. IC 27-9-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 5. (a) An officer, manager, director, trustee, owner, employee, or ~~agent~~ **insurance producer** of any insurer, or any other persons with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the commissioner in any proceeding under IC 27-9 or any investigation preliminary to the proceeding. The term "person" as used in this section includes any person who exercises control, directly or indirectly, over activities of insurer through any holding company or other affiliate of the insurer. "To cooperate" includes:

(1) replying promptly in writing to any inquiry from the commissioner requesting such a reply; and



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(2) making available to the commissioner all books, accounts, documents, or other records, information, or property of or pertaining to the insurer and in his possession, custody, or control.

(b) A person may not obstruct or interfere with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary to or incidental to an investigation.

(c) This section does not abridge existing legal rights, including the right to resist a petition for liquidation, other delinquency proceedings, or other orders.

(d) A person who:

(1) is included within subsection (a) and who fails to cooperate with the commissioner;

(2) obstructs or interferes with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary or incidental to a delinquency proceeding; or

(3) violates any order of the commissioner under IC 27-9; commits a Class A infraction.

SECTION 109. IC 27-9-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 9. (a) The commissioner may petition for an order dissolving the corporate existence of a domestic insurer, or the United States branch of an alien insurer domiciled in Indiana, at the time he applies for a liquidation order. The Marion County circuit court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, the dissolution shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent but may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason.

(b) The liquidator may do all acts necessary or appropriate for the accomplishment of the liquidation, including the following:

(1) Appoint a special deputy to act for him under this article, and determine a reasonable compensation for that special deputy.

(2) Employ employees and ~~agents~~, **insurance producers**, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel as he considers necessary to assist in the liquidation.

(3) Fix the reasonable compensation of employees and ~~agents~~, **insurance producers**, legal counsel, actuaries, accountants, appraisers, and consultants with the approval of the court.

(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of,

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or otherwise dealing with the business and property of the insurer.
 (5) Hold hearings, subpoena witnesses to compel their attendance, administer oaths, examine any person under oath, and compel any person to subscribe to his testimony after it has been correctly reduced to writing, and in connection with hearings and the examination of witnesses require the production of any books, papers, records, or other documents which he deems relevant to the inquiry.

(6) Collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose:

(A) institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against those debts;

(B) do other acts necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as he considers best; and

(C) pursue any creditor's remedies available to enforce his claims.

(7) Conduct public and private sales of the property of the insurer.

(8) Use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 40 of this chapter.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with, any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable.

(10) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

(11) Enter into contracts that are necessary to carry out the order to liquidate, and affirm or disavow any contracts to which the insurer is a party.

(12) Continue to prosecute and to institute in the name of the insurer, or in his own name, all suits and other legal proceedings, in Indiana or elsewhere, and abandon the prosecution of claims he considers unprofitable to pursue further.

(13) Prosecute any action that may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any director or officer of the insurer, or any other person.

(14) Remove all records and property of the insurer to the offices

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of the commissioner or to some other place as may be convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one (1) or more banks in Indiana sums required for meeting current administration expenses and dividend distributions.

(16) Invest all sums not currently needed, unless the court orders otherwise.

(17) File any necessary documents for record in the office of any recorder of deeds or record office in Indiana or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitation, statutes of frauds, and the defense of usury.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by the general law and that is not included in sections 14 through 16 of this chapter.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Exercise all powers conferred upon receivers by the laws of Indiana not inconsistent with this article.

SECTION 110. IC 27-9-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 10. (a) Unless the Marion County circuit court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by:

(1) first-class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is doing business;

(2) first-class mail to any guaranty association or foreign guaranty association that is or may become obligated as a result of the liquidation;

(3) first-class mail to all insurance ~~agents~~ **producers** of the insurer;

(4) first-class mail to all persons known or reasonably expected to

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1 have claims against the insurer, including all policyholders, at
 2 their last known address as indicated by the records of the insurer;
 3 (5) first-class mail to the secretary of state's office; and
 4 (6) publication in a newspaper of general circulation in the county
 5 in which the insurer has its principal place of business and in all
 6 other locations the liquidator considers appropriate.

7 (b) Notice to potential claimants under subsection (a) must require
 8 claimants to file with the liquidator their claims, together with proper
 9 proof of those claims under section 34 of this chapter, before a date the
 10 liquidator specifies in the notice. The liquidator need not require
 11 persons claiming cash surrender values or other investment values in
 12 life insurance and annuities to file a claim. All claimants must keep the
 13 liquidator informed of any changes of address.

14 (c) If notice is given in accordance with this section, the distribution
 15 of assets of the insurer under this chapter shall be conclusive with
 16 respect to all claimants, whether or not they received notice.

17 SECTION 111. IC 27-9-3-11 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 19 Sec. 11. (a) Every person who receives notice in the form prescribed in
 20 section 10 of this chapter that an insurer whom he represents as an
 21 **agent insurance producer** is the subject of a liquidation order must,
 22 within fifteen (15) days of that notice, give notice of the liquidation
 23 order to each policyholder as provided by subsection (b).

24 (b) The notice must be sent by first class mail to the last address
 25 contained in the **agent's insurance producer's** records to each
 26 policyholder or other person named in any policy issued through that
 27 **agent insurance producer** by the insurer, if he has a record of the
 28 address of the policyholder or other person.

29 (c) A policy shall be treated as though it were issued through an
 30 **agent insurance producer** if the **agent insurance producer** has a
 31 property interest in the expiration of the policy, or if the **agent**
 32 **insurance producer** has had in his possession a copy of the
 33 declarations of the policy at any time during the life of the policy,
 34 except where the ownership of the expiration of the policy has been
 35 transferred to another.

36 (d) The written notice must include:

- 37 (1) the name and address of the insurer;
- 38 (2) the name and address of the **agent insurance producer**; and
- 39 (3) identification of the policy impaired and the nature of the
 40 impairment, including termination of coverage as described in
 41 section 8 of this chapter.

42 (e) Notice by a general agent satisfies the notice requirement for any

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1 ~~agents~~ **insurance producers** under contract to ~~him~~ **the general agent**.
 2 Each ~~agent~~ **insurance producer** obligated to give notice under this
 3 section shall file a report of compliance with the liquidator.

4 (f) After a hearing under IC 4-21.5-3, an ~~agent~~ **insurance producer**
 5 failing to give notice or file a report of compliance as required by
 6 subsection (e) may be subject to payment of a penalty of not more than
 7 one thousand dollars (\$1,000) and may have his license suspended.

8 (g) The liquidator may waive the duties imposed by this section if
 9 he determines that other notice to the policyholders of the insurer under
 10 liquidation is adequate.

11 SECTION 112. IC 27-9-3-31 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

13 Sec. 31. (a) An ~~agent~~ **insurance producer**, a broker, an agency, a
 14 premium finance company, an insured, or any other person responsible
 15 for the payment of a premium shall be obligated to pay any earned but
 16 unpaid premium for any policy that is due the insurer for coverage
 17 provided before the declaration of insolvency. However, an ~~agent~~,
 18 **insurance producer**, a broker, an agency, a premium finance
 19 company, an insured, or any other person responsible for the payment
 20 of a premium shall not be responsible for any unpaid premium
 21 unearned as of the time of the declaration of insolvency.

22 (b) In addition to the obligation owed under subsection (a), an ~~agent~~,
 23 **insurance producer**, broker, agency, premium finance company, or
 24 any other person, other than the insured, responsible for the payment
 25 of a premium to the insurance company or any holding company shall
 26 pay any unearned premium collected from the insured before the
 27 declaration of insolvency. The commissioner may also recover from
 28 that person any part of an unearned premium that represents a
 29 commission of that person.

30 (c) Credits or setoffs or both may not be allowed to an ~~agent~~,
 31 **insurance producer**, broker, or premium finance company for any
 32 amounts advanced to the insurer by the ~~agent~~, **insurance producer**,
 33 broker, or premium finance company on behalf of, but in the absence
 34 of a payment by, the insured.

35 (d) Upon satisfactory evidence of a violation of this section, the
 36 commissioner may pursue the following courses of action against those
 37 parties licensed by the department of insurance:

38 (1) Suspend, revoke or refuse to renew the licenses of the
 39 offending party.

40 (2) Impose a penalty of not more than one thousand dollars
 41 (\$1,000) for each and every act in violation of this article by the
 42 party.

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1 These penalties are in addition to and not in lieu of the obligations
2 owed under subsections (a) and (b).

3 (e) Before the commissioner may take any action as provided in
4 subsection (d), he shall give written notice to the person accused of
5 violating the law, stating specifically the nature of the alleged violation,
6 and fixing a time (at least ten (10) days after the notice is sent) and
7 place when a hearing on the matter is to be held. After the hearing, if
8 the commissioner finds a violation, or upon failure of the accused to
9 appear at the hearing, the commissioner shall impose whatever
10 penalties allowed under subsection (d) as he considers advisable.

11 (f) Subsection (a) does not relieve an insured of any obligation that
12 may exist to reimburse any agency, ~~agent~~, **insurance producer**, broker,
13 premium finance company, or other person for amounts advanced to
14 the insurer on behalf of the insured.

15 SECTION 113. IC 27-9-4-3 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
17 Sec. 3. (a) The domiciliary liquidator of an insurer domiciled in a
18 reciprocal state shall, except as to special deposits and security on
19 secured claims under section 4(c) of this chapter, be vested by
20 operation of law with the title to all of the assets, property, contracts,
21 and rights of action, ~~agents'~~ **insurance producers'** balances, and all of
22 the books, accounts, and other records of the insurer located in Indiana.
23 The date of vesting shall be the date of the filing of the petition, if that
24 date is specified by the domiciliary law for the vesting of property in
25 the domiciliary state. Otherwise, the date of vesting shall be the date of
26 entry of the order directing possession to be taken. The domiciliary
27 liquidator shall have the immediate right to recover balances due from
28 ~~agents~~ **insurance producers** and to obtain possession of the books,
29 accounts, and other records of the insurer located in Indiana. He also
30 shall have the right to recover all other assets of the insurer located in
31 Indiana, subject to section 4 of this chapter.

32 (b) If a domiciliary liquidator is appointed for an insurer not
33 domiciled in a reciprocal state, the commissioner shall be vested by
34 operation of law with the title to all of the property, contracts and rights
35 of action, and all of the books, accounts, and other records of the
36 insurer located in Indiana, at the same time that the domiciliary
37 liquidator is vested with title in the domicile. The Indiana insurance
38 commissioner may petition for a conservation or liquidation order
39 under sections 1 or 2 of this chapter, or for an ancillary receivership
40 under section 4 of this chapter, or after approval by the Marion County
41 circuit court may transfer title to the domiciliary liquidator, as the
42 interests of justice and the equitable distribution of the assets require.



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(c) Claimants residing in Indiana may file claims with the liquidator or ancillary receiver, if any, in Indiana or with the domiciliary liquidator, if the domiciliary law permits. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

SECTION 114. IC 27-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 2. "All lines fire and casualty ~~agent~~" **insurance producer**" means an ~~agent~~ **insurance producer** who holds a valid license issued by the department of insurance to engage in the writing and transacting of all of the following lines and kinds of insurance:

- (1) Property insurance.
- (2) Casualty insurance.
- (3) Surety insurance.
- (4) Disability insurance.
- (5) Inland marine insurance.

SECTION 115. IC 27-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 1. (a) A person may not act in the capacity of a bail agent or recovery agent or perform any of the functions, duties, or powers prescribed for bail agents or recovery agents under this article unless the person is qualified and licensed as provided in this article. However, none of the terms of this section shall prohibit any individual or individuals from:

- (1) pledging real or other property as security for a bail bond in judicial proceedings and where the individual does not receive, or is not promised, money or other things of value; or
- (2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between the insurer and any automobile club or association, financing institution, insurance company, or other organization or association, and on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

(b) A license:

- (1) may not be issued except in compliance with this article; and
- (2) may only be issued to an individual.

However, upon an affirmative showing to the commissioner in writing by an individual that the individual is an all lines fire and casualty ~~agent~~, **insurance producer**, a surety bail agent license shall be issued to the individual without further qualification or fee to represent an insurer the individual is licensed to represent. The individual shall be subject to and governed by laws and rules relating to bail agents when



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engaged in the activities of a bail agent.

(c) A firm, a partnership, an association, a limited liability company, or a corporation may not be licensed.

(d) The applicant must apply in writing, on forms prepared and supplied by the commissioner, and the commissioner may propound any reasonable interrogatories to an applicant for a license under this article or on any renewal of a license relating to the applicant's qualifications, residence, prospective place of business, and any other matters which, in the opinion of the commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The commissioner may also conduct any reasonable inquiry or investigation the commissioner sees fit, relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(e) The failure of the applicant to secure approval of the commissioner shall not preclude the applicant from applying as many times as the applicant desires. However, an applicant's application may not be considered by the commissioner within one (1) year subsequent to the date upon which the commissioner denied the applicant's last application.

SECTION 116. IC 27-10-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 3. (a) The application for license, in addition to the matters set out in section 1 of this chapter, to serve as a bail agent must affirmatively show that:

(1) the applicant is at least eighteen (18) years of age and is of good moral character;

(2) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-1.1, or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(B) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; and

(3) the applicant has knowledge, experience, or instruction in the bail bond business, or has held a valid all lines fire and casualty **agent's insurance producer's** license for one (1) year within the last five (5) years, or has been employed by a company engaged in writing bail bonds in which field the applicant has actively

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engaged for at least one (1) year of the last five (5) years.

(b) The application must affirmatively show that the applicant has been a bona fide resident of the state for one (1) year immediately preceding the date of application. However, the commissioner may waive this requirement.

SECTION 117. IC 27-11-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 9. (a) ~~Agents~~ **Insurance producers** of societies shall be licensed in accordance with the laws regulating the licensing and the revocation, suspension, or termination of license of resident and nonresident ~~agents~~ **insurance producers**.

(b) No examination or license shall be required of any regular salaried officer, employee, or member of a licensed society who devotes substantially all of the officer's, employee's or member's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of those contracts no commission or other compensation directly dependent upon the amount of business obtained.

SECTION 118. IC 27-13-1-3, AS AMENDED BY P.L.132-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. ~~"Agent"~~ **"Insurance producer"** means a person who is a licensed insurance ~~agent~~ **producer** under IC 27-1-15.6 and who:

- (1) solicits, negotiates, effects, procures, delivers, renews, or continues a policy or contract for membership in a health maintenance organization or a prepaid limited health service organization;
- (2) takes or transmits a membership fee or premium for the policy or contract other than for the ~~agent~~ **insurance producer**; or
- (3) causes the ~~agent~~ **insurance producer** to be held out to the public, through advertising or otherwise, as a producer for a health maintenance organization or a prepaid limited health service organization.

SECTION 119. IC 27-13-21-1, AS AMENDED BY P.L.132-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 1. To qualify to represent a health maintenance organization or a limited service health maintenance organization, an ~~agent~~ **insurance producer** shall be licensed ~~and regulated as with~~ an accident and health ~~or sickness qualification insurance agent~~ **under IC 27-1-15.6: IC 27-1-15.6-7.**

SECTION 120. IC 27-13-34-18, AS AMENDED BY P.L.132-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2002 (RETROACTIVE)]: Sec. 18. (a) Except as provided in subsection (c), a limited service health maintenance organization shall maintain in force a fidelity bond in its own name on its officers and employees:

- (1) in an amount not less than fifty thousand dollars (\$50,000); or
- (2) in any other amount prescribed by the commissioner.

(b) The fidelity bond required by this section must be issued by an insurance company not affiliated in any way with the limited service health maintenance organization, that is licensed to do business in Indiana. However, if a fidelity bond is not available from an insurance company that holds a certificate of authority in Indiana, a limited service health maintenance organization may satisfy the requirement of this section by maintaining a fidelity bond procured by a surplus lines ~~insurance agent~~ **producer** not affiliated in any way with the limited service health maintenance organization who holds a license issued under IC 27-1-15.8.

(c) Instead of maintaining a fidelity bond under subsection (a), a limited service health maintenance organization may deposit with the commissioner:

- (1) cash;
- (2) certificates of deposit;
- (3) United States government obligations acceptable to the commissioner;
- (4) any other securities acceptable to the commissioner of the types referred to in IC 27-13-11-1; or
- (5) a combination of the items described in subdivisions (1) through (4).

A deposit made under this subsection is in addition to any other required deposit, and must also be maintained in joint custody with the commissioner in the amount and subject to the same conditions required for a fidelity bond under this section.

SECTION 121. IC 27-13-36.2-3, AS ADDED BY P.L.162-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A health maintenance organization shall pay or deny each clean claim in accordance with section 4 of this chapter.

(b) A health maintenance organization shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

- (1) thirty (30) days **after the claim is received by the health maintenance organization**, for a claim that is filed electronically; or
- (2) forty-five (45) days **after the claim is received by the health maintenance organization**, for a claim that is filed on paper;

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1 and describe any remedy necessary to establish a clean claim.

2 (c) Failure of a health maintenance organization to notify a provider
3 as required under subsection (b) establishes the submitted claim as a
4 clean claim.

5 SECTION 122. IC 27-14-7-9, AS ADDED BY P.L.5-2000,
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2002]: Sec. 9. An MIHC may convert to a stock company
8 under ~~IC 27-1-8-13~~ **IC 27-15** as though the MIHC were an MIC.

9 SECTION 123. IC 28-1-11-2, AS AMENDED BY P.L.134-2001,
10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 2. Any bank or trust
12 company shall have power to act as fiscal or transfer agent of the
13 United States or of any state, municipality, body politic or corporation;
14 and in such capacity to receive and disburse money; to transfer, register
15 and countersign certificates of stock, bonds or other evidence of
16 indebtedness; to authenticate and certify any such bonds and
17 certificates of indebtedness; to act as agent to buy and sell domestic
18 and foreign transportation; to solicit and write insurance as **agent an**
19 **insurance producer** or broker for any insurance company authorized
20 to do business in the state or states where the **agent insurance**
21 **producer** or broker operates; and to act as attorney in fact or agent of
22 any person or corporation, foreign or domestic, for any lawful purpose.

23 SECTION 124. IC 28-1-11-2.5 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
25 Sec. 2.5. (a) A bank or trust company may act as an **agent insurance**
26 **producer** for the sale of any life insurance policy or annuity contract
27 issued by a life insurance company (as defined in IC 27-1-2-3)
28 authorized to do business in Indiana under IC 27-1.

29 (b) A bank or trust company that acts as an **agent insurance**
30 **producer** for the sale of a life insurance policy or an annuity contract:

- 31 (1) is subject to all requirements of IC 27; and
32 (2) must comply with the disclosure requirements under
33 IC 28-1-11-2.6.

34 (c) A bank or trust company may not condition:

- 35 (1) an extension of credit;
36 (2) a lease or sale of real or personal property;
37 (3) the performance of services; or
38 (4) the amount charged for:
39 (A) extending credit;
40 (B) leasing or selling real or personal property; or
41 (C) performing services;

42 upon a person's purchase of a life insurance policy or an annuity

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1 contract from the bank or trust company or an affiliate (as defined in
2 IC 28-2-13-3) of the bank or trust company.

3 (d) This section does not prohibit a bank or trust company from
4 requiring that a person, as a condition to a transaction, obtain a life
5 insurance policy from an insurance company acceptable to the bank or
6 trust company.

7 SECTION 125. IC 28-1-11-2.6 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
9 Sec. 2.6. (a) As used in this section, "financial institution" means a
10 bank, a trust company, a savings association (as defined in IC 28-15),
11 a savings bank (as defined in IC 28-6.1-2-6), a credit union (as defined
12 in IC 28-7-1-0.5), an industrial loan and investment company organized
13 under IC 28-5, or a corporate fiduciary.

14 (b) A financial institution that sells or offers for sale a life insurance
15 policy or an annuity contract shall disclose to a person who seeks to
16 purchase, or seeks an opinion or investment advice about, a life
17 insurance policy or an annuity contract at least the following
18 information:

19 (1) That the life insurance policy or annuity contract is not insured
20 by the Federal Deposit Insurance Corporation or the National
21 Credit Union Share Insurance Fund.

22 (2) That the life insurance policy or annuity contract is not a
23 deposit to, obligation of, or being guaranteed by, the financial
24 institution.

25 (3) That some life insurance policies or annuity contracts are
26 subject to investment risks, including possible loss of the
27 principal amount invested.

28 (c) The disclosures required by subsection (b) must:

29 (1) be made in writing before or at the time of purchase of the life
30 insurance policy or annuity contract; and

31 (2) be made orally or in writing during any sales presentation or
32 when investment advice concerning a life insurance policy or an
33 annuity contract is provided.

34 (d) At the time of the sale of a life insurance policy or an annuity
35 contract, the financial institution must obtain from the purchaser a
36 signed and dated statement containing the following acknowledgments:

37 (1) That the purchaser has received the disclosures required by
38 subsection (b).

39 (2) That the purchaser has read the disclosures and understands
40 them.

41 (e) An advertisement, a solicitation (including a solicitation
42 contained in a periodic statement), promotional or sales material, or a

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1 sale confirmation notice that relates to a life insurance policy or an
 2 annuity contract sold or offered for sale by a financial institution must
 3 conspicuously disclose the information required by subsection (b).

4 (f) A financial institution may not:

5 (1) use information from a purchaser's personal financial
 6 statement for the purpose of selling or soliciting the purchase of
 7 life insurance; or

8 (2) provide information from a purchaser's personal financial
 9 statement to a third party for the purpose of the third party's sale
 10 or solicitation of the purchase of life insurance;

11 unless an insurance ~~agent~~ **producer** of the financial institution obtains
 12 the information directly from the purchaser.

13 (g) If a financial institution sells or solicits the sale of insurance on
 14 the premises of its principal office or a branch, the financial institution
 15 may sell or solicit the sale of insurance only in a location of the
 16 premises that is:

17 (1) physically separated and distinct from the banking activities
 18 of the financial institution; and

19 (2) clearly and conspicuously posted in a manner that easily
 20 indicates to the public that the location is separate and distinct
 21 from the banking activities of the financial institution.

22 (h) If a financial institution requires a person to obtain an insurance
 23 policy in connection with a non-insurance product or service, the
 24 insurance transaction must be completed on a document separate from
 25 the document or documents used to complete the transaction involving
 26 the non-insurance product or service.

27 SECTION 126. IC 28-5-1-6.5, AS AMENDED BY P.L.132-2001,
 28 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 6.5. (a) Notwithstanding
 30 any other provision of this title, an industrial loan and investment
 31 company may act as an ~~agent~~ **insurance producer** for the sale of any
 32 annuity contract issued by a life insurance company (as defined in
 33 IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

34 (b) An industrial loan and investment company that acts as an ~~agent~~
 35 **insurance producer** for the sale of an annuity contract:

36 (1) is subject to all requirements of IC 27 relating to the sale and
 37 solicitation of insurance, including licensing as an ~~agent~~
 38 **insurance producer** under IC 27-1-15.6; and

39 (2) must comply with the disclosure requirements under
 40 IC 28-1-11-2.6.

41 (c) This section does not give power to, or otherwise affect the
 42 power of, an industrial loan and investment company to act as an ~~agent~~

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insurance producer for the sale of life insurance other than an annuity contract.

SECTION 127. IC 28-6.1-6-14, AS AMENDED BY P.L.134-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 14. (a) A savings bank may solicit and write insurance as an **agent insurance producer** or a broker for any insurance company authorized to do business in the state or states where the **agent insurance producer** or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an **agent insurance producer** for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the **agent insurance producer** operates.

(c) A savings bank or its affiliate that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract under subsection (b):

(1) is subject to all requirements of IC 27 with respect to the **agent's insurance producer's** activity in Indiana; and

(2) must comply with the disclosure requirements under IC 28-1-11-2.6.

(d) A savings bank or its affiliate may not condition:

~~(A)~~ (1) an extension of credit;

~~(B)~~ (2) a lease or sale of real or personal property;

~~(C)~~ (3) the performance of a service; or

~~(D)~~ (4) the amount charged for:

(i) (A) extending credit;

(ii) (B) leasing or selling real or personal property; or

(iii) (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the savings bank or its affiliate.

(e) This section does not prohibit a savings bank or its affiliate from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the savings bank or its affiliate.

SECTION 128. IC 28-7-1-9.1, AS AMENDED BY P.L.134-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 9.1. (a) A credit union or a related credit union service organization (as defined in section 0.5(7) of this chapter) that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract issued by a life insurance company (as defined in IC 27-1-2-3):

(1) is subject to the requirements of IC 27; and

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(2) must comply with the disclosure requirements of IC 28-1-11-2.6.

(b) A credit union or credit union service organization may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the credit union or related credit union service organization.

(c) This section does not prohibit a credit union or a credit union service organization from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the credit union or credit union service organization.

SECTION 129. IC 28-14-3-10, AS AMENDED BY P.L.215-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 10. A corporate fiduciary has the power to act as fiscal or transfer agent of the United States or any state, municipality, body politic, or corporation, and may, in that capacity:

- (1) receive and disburse money;
- (2) transfer, register, and countersign certificates of stocks, bonds, and other evidence of indebtedness;
- (3) authenticate and certify bonds and certificates of indebtedness referred to in subdivision (2);
- (4) act as agent to buy and sell domestic and foreign transportation;
- (5) solicit and write insurance as ~~agent~~ **insurance producer** or broker for any insurance company authorized to do business in Indiana; and
- (6) act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

SECTION 130. IC 28-14-3-11, AS AMENDED BY P.L.132-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 11. (a) Notwithstanding any other provision of this title, a corporate fiduciary may act as an ~~agent~~ **insurance producer** for the sale of any annuity contract or any life insurance policy issued by a life insurance company (as defined in

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1 IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

2 (b) A corporate fiduciary that acts as an agent for the sale of an
3 annuity contract or a life insurance policy:

4 (1) is subject to all requirements of IC 27 relating to the sale and
5 solicitation of insurance, including licensing as an ~~agent~~
6 **insurance producer** under IC 27-1-15.6; and

7 (2) must comply with the disclosure requirements under
8 IC 28-1-11-2.6.

9 SECTION 131. IC 32-8-15.5-10, AS ADDED BY P.L.207-2001,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 10. A certificate of
12 release executed under this chapter must contain substantially all of the
13 following:

14 (1) The name of the mortgagor, the name of the original
15 mortgagee and, if applicable, the name of the mortgage service,
16 the date of the mortgage, the date of recording of the mortgage,
17 and the volume and page or instrument number for the mortgage
18 in the real property records where the mortgage is recorded,
19 together with similar information for the last recorded assignment
20 of the mortgage.

21 (2) A statement that the mortgage was in the original principal
22 amount of not more than one million dollars (\$1,000,000).

23 (3) A statement that the person executing the certificate of release
24 is an officer or a duly appointed agent of a title insurance
25 company authorized and licensed to transact the business of
26 insuring titles to interests in real property in Indiana under IC 27.

27 (4) A statement that the certificate of release is made on behalf of
28 the mortgagor or a person who acquired a lien from the mortgagor
29 against all or part of the property described in the mortgage.

30 (5) A statement that the mortgagee or mortgage service provided
31 a payoff statement that was used to make payment in full of the
32 unpaid balance of the loan secured by the mortgage.

33 (6) A statement that payment in full of the unpaid balance of the
34 loan secured by the mortgage was made in accordance with the
35 written or verbal payoff statement, and received by the mortgagee
36 or mortgage servicer, as evidenced in the records of the title
37 insurance company or its agents by:

38 (A) a bank check;

39 (B) a certified check;

40 (C) an escrow account check from the title company or ~~title~~
41 **insurance agent; limited lines producer;**

42 (D) an attorney trust account check that has been negotiated by

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the mortgagee or mortgage servicer; or

(E) any other documentary evidence of payment to the mortgagee or mortgage servicer.

(7) A statement indicating that more than sixty (60) days have elapsed since the date payment in full was sent.

(8) A statement that after the expiration of the sixty (60) day period in section 9 of this chapter, the title insurance company, its officers, or its agent sent to the last known address of the mortgagee or mortgage servicer, at least thirty (30) days before executing the certificate of release, notice in writing of its intention to execute and record a certificate of release as required under this section, with an unexecuted copy of the proposed certificate of release attached to the written notice.

(9) A statement that neither the title insurance company nor its officers or agent have received notification in writing of any reason why the certificate of release should not be executed and recorded after the expiration of the thirty (30) day notice period in section 9 of this chapter.

SECTION 132. IC 34-18-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
Sec. 3. (a) The surcharge shall be collected on the same basis as premiums by each insurer, risk manager, or surplus lines ~~agent~~ **producer**.

(b) The surcharge is due and payable within thirty (30) days after the premium for malpractice liability insurance has been received by the insurer, risk manager, or surplus lines ~~agent~~ **producer** from a health care provider in Indiana. If a surcharge is not paid as required by this section, the insurer, risk manager, or surplus lines ~~agent~~ **producer** responsible for the delinquency is liable for the surcharge plus a penalty equal to ten percent (10%) of the amount of the surcharge.

(c) If the annual premium surcharge is not paid within the time limit specified in subsection (b), the certificate of authority of the insurer, risk manager, and surplus lines ~~agents~~ **producer** shall be suspended until the annual premium surcharge is paid.

SECTION 133. IC 35-43-5-1, AS AMENDED BY P.L.180-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in

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1 writing, or as a computer generated document, including the following:

- 2 (1) An account.
- 3 (2) A bill for services.
- 4 (3) A bill of lading.
- 5 (4) A claim.
- 6 (5) A diagnosis.
- 7 (6) An estimate of property damages.
- 8 (7) A hospital record.
- 9 (8) An invoice.
- 10 (9) A notice.
- 11 (10) A proof of loss.
- 12 (11) A receipt for payment.
- 13 (12) A physician's records.
- 14 (13) A prescription.
- 15 (14) A statement.
- 16 (15) A test result.
- 17 (16) X-rays.

18 (c) "Coin machine" means a coin box, vending machine, or other
19 mechanical or electronic device or receptacle designed:

- 20 (1) to receive a coin, bill, or token made for that purpose; and
- 21 (2) in return for the insertion or deposit of a coin, bill, or token
22 automatically:
- 23 (A) to offer, provide, or assist in providing; or
- 24 (B) to permit the acquisition of;
- 25 some property.

26 (d) "Credit card" means an instrument or device (whether known as
27 a credit card or charge plate, or by any other name) issued by an issuer
28 for use by or on behalf of the credit card holder in obtaining property.

29 (e) "Credit card holder" means the person to whom or for whose
30 benefit the credit card is issued by an issuer.

31 (f) "Customer" means a person who receives or has contracted for
32 a utility service.

33 (g) "Entrusted" means held in a fiduciary capacity or placed in
34 charge of a person engaged in the business of transporting, storing,
35 lending on, or otherwise holding property of others.

36 (h) "Identifying information" means information that identifies an
37 individual, including an individual's:

- 38 (1) name, date of birth, Social Security number, or any
39 identification number issued by a governmental entity;
- 40 (2) unique biometric data, including the individual's fingerprint,
41 voice print, or retina or iris image;
- 42 (3) unique electronic identification number, address, or routing

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code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, an account number, a personal identification number, an electronic serial number, a mobile identification number, or ~~other~~ **another** telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value; or

(B) initiate a transfer of funds.

(i) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).

(3) ~~An administrator contract~~ **A written agreement** entered into under IC 27-1-25.

(j) "Insurer" has the meaning set forth in IC 27-1-2-3(x).

(k) "Manufacturer" means a person who manufactures a recording.

The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(l) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(m) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(n) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes poor relief, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(o) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

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(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(p) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(q) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

(r) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 134. IC 35-43-9-4, AS AMENDED BY P.L.132-2001, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 4. As used in this chapter, "title insurance agent" means a person who holds a limited ~~insurance representative's~~ **lines producer's** license issued under IC 27-1-15.6-18(4) and disburses funds from a title insurance escrow account to a party in connection with a residential real property transaction.

SECTION 135. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

(A) the department through a general appropriation provided to the department;

(B) a line item appropriation directly to the trust fund; or

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1 (C) both; and
 2 (2) by an employee beneficiary through authorized monthly
 3 deductions from the employee beneficiary's salary or wages.
 4 However, the employer may pay all or a part of the contribution
 5 for the employee beneficiary.

6 Contributions through an appropriation are not required for plans
 7 established or modifications adopted after June 30, 1989, unless the
 8 establishment or modification is approved by the county fiscal body.

9 (d) For a county not having a consolidated city, the monthly
 10 deductions from an employee beneficiary's wages for the trust fund
 11 may not exceed six percent (6%) of the employee beneficiary's average
 12 monthly wages. For a county having a consolidated city, the monthly
 13 deductions from an employee beneficiary's wages for the trust fund
 14 may not exceed seven percent (7%) of the employee beneficiary's
 15 average monthly wages.

16 (e) The minimum annual contribution by the department must be
 17 sufficient, as determined by the pension engineers, to prevent
 18 deterioration in the actuarial status of the trust fund during that year. If
 19 the department fails to make minimum contributions for three (3)
 20 successive years, the pension trust terminates and the trust fund shall
 21 be liquidated.

22 (f) If during liquidation all expenses of the pension trust are paid,
 23 adequate provision must be made for continuing pension payments to
 24 retired persons. Each employee beneficiary is entitled to receive the net
 25 amount paid into the trust fund from the employee beneficiary's wages,
 26 and any remaining sum shall be equitably divided among employee
 27 beneficiaries in proportion to the net amount paid from their wages into
 28 the trust fund.

29 (g) If a person ceases to be an employee beneficiary because of
 30 death, disability, unemployment, retirement, or other reason, the
 31 person, the person's beneficiary, or the person's estate is entitled to
 32 receive at least the net amount paid into the trust fund from the person's
 33 wages, either in a lump sum or monthly installments not less than the
 34 person's pension amount.

35 (h) If an employee beneficiary is retired for old age, the employee
 36 beneficiary is entitled to receive a monthly income in the proper
 37 amount of the employee beneficiary's pension during the employee
 38 beneficiary's lifetime.

39 (i) To be entitled to the full amount of the employee beneficiary's
 40 pension classification, an employee beneficiary must have contributed
 41 at least twenty (20) years of service to the department before
 42 retirement. Otherwise, the employee beneficiary is entitled to receive

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1 a pension proportional to the length of the employee beneficiary's
2 service.

3 (j) This subsection does not apply to a county that adopts an
4 ordinance under section 12.1 of this chapter. For an employee
5 beneficiary who retires before January 1, 1985, a monthly pension may
6 not exceed by more than twenty dollars (\$20) one-half (1/2) the amount
7 of the average monthly wage received during the highest paid five (5)
8 years before retirement. However, in counties where the fiscal body
9 approves the increases, the maximum monthly pension for an employee
10 beneficiary who retires after December 31, 1984, may be increased by
11 no more or no less than two percent (2%) of that average monthly wage
12 for each year of service over twenty (20) years to a maximum of
13 seventy-four percent (74%) of that average monthly wage plus twenty
14 dollars (\$20). For the purposes of determining the amount of an
15 increase in the maximum monthly pension approved by the fiscal body
16 for an employee beneficiary who retires after December 31, 1984, the
17 fiscal body may determine that the employee beneficiary's years of
18 service include the years of service with the sheriff's department that
19 occurred before the effective date of the pension trust. For an employee
20 beneficiary who retires after June 30, 1996, the average monthly wage
21 used to determine the employee beneficiary's pension benefits may not
22 exceed the monthly minimum salary that a full-time prosecuting
23 attorney was entitled to be paid by the state at the time the employee
24 beneficiary retires.

25 (k) The trust fund may not be commingled with other funds, except
26 as provided in this chapter, and may be invested only in accordance
27 with statutes for investment of trust funds, including other investments
28 that are specifically designated in the trust agreement.

29 (l) The trustee receives and holds as trustee all money paid to it as
30 trustee by the department, the employee beneficiaries, or by other
31 persons for the uses stated in the trust agreement.

32 (m) The trustee shall engage pension engineers to supervise and
33 assist in the technical operation of the pension trust in order that there
34 is no deterioration in the actuarial status of the plan.

35 (n) Within ninety (90) days after the close of each fiscal year the
36 trustee, with the aid of the pension engineers, shall prepare and file an
37 annual report with the department. ~~and the state insurance department.~~
38 The report must include the following:

39 (1) Schedule 1. Receipts and disbursements.

40 (2) Schedule 2. Assets of the pension trust listing investments by
41 book value and current market value as of the end of the fiscal
42 year.

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1 (3) Schedule 3. List of terminations, showing the cause and
2 amount of refund.

3 (4) Schedule 4. The application of actuarially computed "reserve
4 factors" to the payroll data properly classified for the purpose of
5 computing the reserve liability of the trust fund as of the end of
6 the fiscal year.

7 (5) Schedule 5. The application of actuarially computed "current
8 liability factors" to the payroll data properly classified for the
9 purpose of computing the liability of the trust fund as of the end
10 of the fiscal year.

11 (o) No part of the corpus or income of the trust fund may be used or
12 diverted to any purpose other than the exclusive benefit of the members
13 and the beneficiaries of the members.

14 SECTION 136. THE FOLLOWING ARE REPEALED
15 [EFFECTIVE JULY 1, 2002]: IC 27-1-25-11; IC 27-1-25-12.

16 SECTION 137. [EFFECTIVE JULY 1, 2002] (a) **An administrator**
17 **that has a certificate of registration issued under IC 27-1-25, before**
18 **amendment by this act, on June 30, 2002, is considered to be**
19 **licensed under IC 27-1-25, as amended by this act, until the**
20 **expiration of the certificate of registration.**

21 (b) **This SECTION expires June 30, 2005.**

22 SECTION 138. **An emergency is declared for this act.**

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